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Exhibit 3

Case 3:16-md-02741-1/Cn + Document-2419-1/e Filed 01/03/19k, Page 2-0f 90 1 UNITED STATES DISTRICT COURT 2 NORTHERN DISTRICT OF CALIFORNIA 3 4 IN RE: ROUNDUP PRODUCTS LIABILITY) LITIGATION) 5) This Document Relates To:) MDL NO. 2741 6 Hardeman v. Monsanto Co., et al.) Case No. Case No. 3:16-cv-00525; 7) 3:16-md-02741-VC) Stevick v. Monsanto Co., et al. 8) Case No. 3:16-cv-02341; and 9 Gebeyehou v. Monsanto Co., et al.) 10 Case No. 3:16-cv-05813) 11 12 13 CONFIDENTIAL 14 VIDEOTAPED DEPOSITION OF CHARLES BENBROOK, Ph.D. 15 16 Confidential videotaped deposition upon oral 17 examination of CHARLES BENBROOK, Ph.D., taken at the 18 request of the Defendants before Amy J. Brown, RMR, CRR, CLR, a Certified Court Reporter, WA CCR No. 2133, at the 19 20 Quality Inn & Suites Conference Center, 700 Port Drive, Board Room, Clarkston, Washington, commencing at or 21 22 about 9:03 a.m. on December 28, 2018, pursuant to the Federal Rules of Civil Procedure. 23 24 25

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1	(Exhibit 1A marked for identification.)		also like to state for the record that we are
2	VIDEOGRAPHER: We are now on the record. My		designating this deposition confidential pursuant to the
3	name is Vladimir Korneychuk. I am a videographer for	3	
4	Golkow Litigation Services. Today's date is	4	MR. KRISTAL: Now, my understanding, also, just
	December 28th, 2018, and the time is 9:03 a.m.		in housekeeping matters I don't have it with me
6	This video deposition is being held in the	6	was there a three-hour time limit on people that have
7	Quality Inn in Clarkston, Washington, in the matter of	7	\dots
8	In Re: Roundup Products Liability Litigation, for the	8	MR. FAYNE: There's a three-hour time limit, I
9	United States District Court, Northern District of	9	believe, for specific causation experts. The I
10	California. The deponent is Charles Benbrook, Ph.D.	10	believe the timeline for this deposition is the normal
11	Would counsel please identify themselves.	11	
12	MR. KRISTAL: Jerry Kristal from Weitz and	12	MR. KRISTAL: All right. Well, if we approach
13	Luxenberg on behalf of plaintiffs.	13	we will check what you say, and if that's correct, then
14	MR. ESFANDIARY: Pedram Esfandiary for the		seven hours it is.
15	plaintiffs.	15	MR. FAYNE: Sure.
16	MR. FAYNE: Zach Fayne, Arnold & Porter, for	16	EXAMINATION
17	defendant Monsanto Company.		BY MR. FAYNE:
18	MR. HOLLINGSWORTH: Grant Hollingsworth of	18	Q. Dr. Benbrook, could you please state your name
19	Hollingsworth LLP for defendant Monsanto.		for the record.
20	VIDEOGRAPHER: The court reporter is Amy Brown.	20	A. Charles Benbrook.
21	Will you please swear in the witness.	21	Q. And you've been deposed many times before,
22	CHARLES BENBROOK, Ph.D.,		correct, Dr. Benbrook?
23	called as a witness on behalf of the Plaintiff,	23	A. Yeah, several times.
24	who, having been first duly sworn, was then and	24	Q. So you're aware of the ground rules for
25	there examined and testified as follows:	25	depositions?
	Page 7		Page 9
1	Page 7 MR. KRISTAL: Before we get started, I would	1	Page 9 A. I am.
1	-	1 2	-
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Page 10 Page 10 Page 12 1 Q. And you had two days in the Peterson and Hall 1 with other experts in the case; is that correct? 3 A. Correct. 2 A. Right. 1 did. 3 4 Q. And thut was May and August, respectively? 4 A. Correct. 5 6 Q. And you also testified in the Johnson trial in 9 Communications with the adary 9 California on July 27h? 7 Q. Yes. Paragraph 18. En sory. 11 Q. You gave all of that testimony under oath; 12 0 12 correct. 10 disclosed the e-mails communications, have you 12 correct. 11 10 disclosed the e-mails communications, have you 13 A. Yes. 11 11 A. Yes. 11 12 correct. 13 30 Not the the soft on my ability, yes. 11 14 A. To me best of my ability, yes. 12 When was the first one? 13 14 A. To my understanding of the record that IVe 14 14 14 14 <th></th> <th>Chi fuenciar - Char</th> <th></th> <th>· · · · · · · · · · · · · · · · · · ·</th>		Chi fuenciar - Char		· · · · · · · · · · · · · · · · · · ·
2 case; correct? 2 A. Right, I.did. 3 A. Correct. 9 O. Other than the e-mails that you produced, have 4 Q. And that was May and August, respectively? A. Yes. Sisted in Request Number 18? 7 A. Correct. 6 A. Number 18? 7 Q. Yes. Paragraph 18. I'm sorry. 8 Q. And you also testified in the Johnson trial in 7 Q. Yes. Paragraph 18. I'm sorry. 8 A. Let's see. The only person that I've had any 10 A. Correct. 10 disclosed the e-mails to him. 11 Q. Orber than the e-mails to him. 12 Correct? 12 data ny elephone conversations with Dr. Blair since 13 13 A. Yes. G. Mot you stand by all the testimony you grave 14 A. Yes. I did. I've had, I think, two. 15 testimony? 14 A. Yes. I did. New also than a the e-mail's Decause 14 14 M. To my understanding of the record that I've 18 Q. I dow'n have them with me. I'm sorry. 19 been asked to review, yes. 13 Q. I'se mailed Dr. Blair. The e-mail has been 21 during those depositions. 2 I disclosed to you. And asked him a technical		Page 10		Page 12
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14 Q. You told the truth when you gave that 14 A. Yes, I did. I've had, I think, two. 15 testimony? 15 Q. When was the first one? 16 A. To the best of my ability, yes. 15 Q. When was the first one? 17 Q. Testified as accurately as you could? 17 that will give me the date. 18 A. To my understanding of the record that I've 18 Q. I don't have them with me. I'm sory. 19 been asked to review, yes. 10 1 A. Okay. 20 Q. And you stand by all the testimony you gave 12 disclosed to you. And asked him a technical question 21 disclosed to sou. And asked him a technical question 22 about the glyphosate portion of the Volume 122 23 Q. We've marked as Exhibit 1 the deposition notice 2 mongraph. 24 For this deposition. 24 MR. KRISTAL: And just for the record, we had 3 MR. KRISTAL: And just for the record, we had 1 THE WITNESS: It was in November sometime. 2 Q. Ibdi you look on page	12	correct?	12	had any telephone conversations with Dr. Blair since
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14A. I don't see a page 4, but I'm sure you'll14Q. What was his answer?15direct me right to where you want to ask something15A. That the his recollection was that those16about.15A. That the his recollection was that those17Q. Yeah. There are there are no page numbers16studies assessed genotoxic mechanisms of action that18on here, I apologize, but if you flip to it looks like18assays on impacts on sex hormones and oxidative stress.19the fourth page, the heading that says "Request for19Q. Did he explain why those types of assays were20Production."20not covered in the core tables?21A. Yes.21A. Just that they didn't fit. If you look at22Q. Did you check your files for responsive21A. Just that they didn't fit. If you look at		-		-
15direct me right to where you want to ask something16about.17Q. Yeah. There are there are no page numbers18on here, I apologize, but if you flip to it looks like19the fourth page, the heading that says "Request for20Production."21A. Yes.22Q. Did you check your files for responsive15A. That the his recollection was that those15about.15A. That the his recollection was that those16studies assessed genotoxic mechanisms of action that17were not covered by the core tables, and in particular18on here, I apologize, but if you flip to it looks like19Q. Did he explain why those types of assays were20Production."21A. Yes.22Q. Did you check your files for responsive21A. Just that they didn't fit. If you look at22Q. Did you check your files for responsive				
16 about.16 studies assessed genotoxic mechanisms of action that17 Q. Yeah. There are there are no page numbers16 studies assessed genotoxic mechanisms of action that18 on here, I apologize, but if you flip to it looks like17 were not covered by the core tables, and in particular19 the fourth page, the heading that says "Request for19 Q. Did he explain why those types of assays were20 Production."20 not covered in the core tables?21 A. Yes.21 A. Yes.22 Q. Did you check your files for responsive21 A. Just that they didn't fit. If you look at22 the the taxonomy of the way IARC did their tables,				
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18on here, I apologize, but if you flip to it looks like19the fourth page, the heading that says "Request for20Production."21A. Yes.22Q. Did you check your files for responsive24Did you check your files for responsive				-
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21A. Yes.21A. Just that they didn't fit. If you look at22Q. Did you check your files for responsive21A. Just that they didn't fit. If you look at22the the taxonomy of the way IARC did their tables,				
22 Q. Did you check your files for responsive 22 the the taxonomy of the way IARC did their tables,				
23 materials? 23 that answer made sense to me. I understood it.				
24 A. I did. 25 Q. And I believe you produced a handful of a maile 25 Dr. Blair was?				
25 Q. And I believe you produced a handful of e-mails 25 Dr. Blair was?		O. And I Deneve you broduced a nandrul of e-mails	140	DI. DIAII WAS!

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1	D 44	1	
	Page 14		Page 16
	A. 15 minutes.		months when I spent a lot of hours and a few months when
2	Q. You testified that you had two conversations		I didn't spend a lot.
	with Dr. Blair. Do you recall when the second one was?	3	Q. In preparing your expert report for this
4	A. Let's see. Maybe I only had one phone call		case and by "this case," I'm referring to the MDL
	with him. I sent him an e-mail and asked him if I could		cases of Stevick, Hardeman and Gebeyehou.
	talk to him, and then I I had the phone conversation.	6	MR. KRISTAL: That's as good as any of us are
	And then I he expressed an interest in what I was	7	going to get. We'll take it.
	doing, and I told him I was doing an assessment of the	8	THE WITNESS: I hope I don't have to try that
-	genotox database relied on by IARC and relied on by EPA.	9	
10	And he asked me a little bit about what I was	10	Q. (BY MR. FAYNE:) I'll keep working on it throughout the day. I'm going to start that question
	doing, and then I sent him a subsequent e-mail with just	11	
	a few of the results which are actually, I think, also	12	over.
	in my report. And there might not have been a second	13	In preparing your expert opinion for these
-	phone call. I can't really remember.	14	cases of Stevick, Hardeman and Gebeyehou, did you rely
15	Q. Any in-person conversations with Dr. Blair?		in part on the work that you've done prior to August? A. Yes.
16 17	A. No.	16 17	
	Q. And no telephone calls or in-person conversations with any of the other individuals listed	18	Q. And that's the work you were doing in the Johnson case?
19 i		19	A. Yes.
20	A. The only time I've ever met, been with any of	20	Q. And the Peterson and Hall case?
	them was Dr. Sawyers, and it was just momentarily at the	21	A. Yes.
	trial. He testified before me. I spent a little time	21	Q. And the Adams case?
	with him there.	22	A. Yes.
24	Q. And for the court reporter's benefit, if you	24	Q. So you were able to take advantage of that
	could wait until I finish my question, and I'll		earlier work in preparing your expert opinion for this
25 0	could wait until I missi my question, and I mas		carner work in preparing your expert opinion for ans
	Page 15		Page 17
1	A. Oh.	1	case; correct?
2	Q I'll try to do the same as well. I know	2	A. That is that is correct.
	it's in typical conversation, it's hard to. And if	3	
4 v			(Exhibit 2 marked for identification.)
	we could try to do that.	4	Q. (BY MR. FAYNE:) In front of you, you have an
5	A. Just keep reminding me.	5	Q. (BY MR. FAYNE:) In front of you, you have an exhibit that's marked as Exhibit Number 2, and these are
6	A. Just keep reminding me.Q. Absolutely, I will do that. And I am sure she	5 6	Q. (BY MR. FAYNE:) In front of you, you have an exhibit that's marked as Exhibit Number 2, and these are your invoices from I believe it's September, October,
6 7 v	A. Just keep reminding me.Q. Absolutely, I will do that. And I am sure shewill keep reminding me, as well.	5 6 7	Q. (BY MR. FAYNE:) In front of you, you have an exhibit that's marked as Exhibit Number 2, and these are your invoices from I believe it's September, October, and November of 2018; is that correct?
6 7 v 8	 A. Just keep reminding me. Q. Absolutely, I will do that. And I am sure she will keep reminding me, as well. At your first deposition in February, you 	5 6 7 8	Q. (BY MR. FAYNE:) In front of you, you have an exhibit that's marked as Exhibit Number 2, and these are your invoices from I believe it's September, October, and November of 2018; is that correct?A. Yep. That's correct.
6 7 v 8 9 t	 A. Just keep reminding me. Q. Absolutely, I will do that. And I am sure she will keep reminding me, as well. At your first deposition in February, you testified that you spent approximately 3 320 to 	5 6 7 8 9	 Q. (BY MR. FAYNE:) In front of you, you have an exhibit that's marked as Exhibit Number 2, and these are your invoices from I believe it's September, October, and November of 2018; is that correct? A. Yep. That's correct. MR. KRISTAL: Thank you.
6 7 y 8 9 t 10 3	 A. Just keep reminding me. Q. Absolutely, I will do that. And I am sure she will keep reminding me, as well. At your first deposition in February, you testified that you spent approximately 3 320 to 350 hours reviewing materials in preparation for your 	5 6 7 8 9 10	 Q. (BY MR. FAYNE:) In front of you, you have an exhibit that's marked as Exhibit Number 2, and these are your invoices from I believe it's September, October, and November of 2018; is that correct? A. Yep. That's correct. MR. KRISTAL: Thank you. Q. (BY MR. FAYNE:) And so if we can quickly flip
6 7 v 8 9 t 10 3 11 r	 A. Just keep reminding me. Q. Absolutely, I will do that. And I am sure she will keep reminding me, as well. At your first deposition in February, you testified that you spent approximately 3 320 to 350 hours reviewing materials in preparation for your role as an expert witness; do you recall that? 	5 6 7 8 9 10 11	 Q. (BY MR. FAYNE:) In front of you, you have an exhibit that's marked as Exhibit Number 2, and these are your invoices from I believe it's September, October, and November of 2018; is that correct? A. Yep. That's correct. MR. KRISTAL: Thank you. Q. (BY MR. FAYNE:) And so if we can quickly flip through them. It looks like you spent 19 and a half
6 7 v 8 9 t 10 3 11 r 12	 A. Just keep reminding me. Q. Absolutely, I will do that. And I am sure she will keep reminding me, as well. At your first deposition in February, you testified that you spent approximately 3 320 to 350 hours reviewing materials in preparation for your role as an expert witness; do you recall that? A. I recall discussing it. I don't recall the 	5 6 7 8 9 10 11 12	 Q. (BY MR. FAYNE:) In front of you, you have an exhibit that's marked as Exhibit Number 2, and these are your invoices from I believe it's September, October, and November of 2018; is that correct? A. Yep. That's correct. MR. KRISTAL: Thank you. Q. (BY MR. FAYNE:) And so if we can quickly flip through them. It looks like you spent 19 and a half hours in September working on this case; is that
6 7 y 8 9 t 10 3 11 r 12 13 e	 A. Just keep reminding me. Q. Absolutely, I will do that. And I am sure she will keep reminding me, as well. At your first deposition in February, you testified that you spent approximately 3 320 to 350 hours reviewing materials in preparation for your role as an expert witness; do you recall that? A. I recall discussing it. I don't recall the exact hours. I'm sure I produced the invoices that had 	5 6 7 8 9 10 11 12 13	 Q. (BY MR. FAYNE:) In front of you, you have an exhibit that's marked as Exhibit Number 2, and these are your invoices from I believe it's September, October, and November of 2018; is that correct? A. Yep. That's correct. MR. KRISTAL: Thank you. Q. (BY MR. FAYNE:) And so if we can quickly flip through them. It looks like you spent 19 and a half hours in September working on this case; is that correct?
6 7 v 8 9 t 10 3 11 r 12 13 e 14 t	 A. Just keep reminding me. Q. Absolutely, I will do that. And I am sure she will keep reminding me, as well. At your first deposition in February, you testified that you spent approximately 3 320 to 350 hours reviewing materials in preparation for your role as an expert witness; do you recall that? A. I recall discussing it. I don't recall the exact hours. I'm sure I produced the invoices that had been submitted up until that time, and the number came 	5 6 7 8 9 10 11 12 13 14	 Q. (BY MR. FAYNE:) In front of you, you have an exhibit that's marked as Exhibit Number 2, and these are your invoices from I believe it's September, October, and November of 2018; is that correct? A. Yep. That's correct. MR. KRISTAL: Thank you. Q. (BY MR. FAYNE:) And so if we can quickly flip through them. It looks like you spent 19 and a half hours in September working on this case; is that correct? A. Correct.
6 7 v 8 9 t 10 3 11 r 12 13 e 14 t 15 f	 A. Just keep reminding me. Q. Absolutely, I will do that. And I am sure she will keep reminding me, as well. At your first deposition in February, you testified that you spent approximately 3 320 to 350 hours reviewing materials in preparation for your role as an expert witness; do you recall that? A. I recall discussing it. I don't recall the exact hours. I'm sure I produced the invoices that had been submitted up until that time, and the number came from adding them up. 	5 6 7 8 9 10 11 12 13 14 15	 Q. (BY MR. FAYNE:) In front of you, you have an exhibit that's marked as Exhibit Number 2, and these are your invoices from I believe it's September, October, and November of 2018; is that correct? A. Yep. That's correct. MR. KRISTAL: Thank you. Q. (BY MR. FAYNE:) And so if we can quickly flip through them. It looks like you spent 19 and a half hours in September working on this case; is that correct? A. Correct. Q. 63 hours in October; is that correct?
6 7 x 9 t 10 3 11 r 12 13 e 14 t 15 f 16	 A. Just keep reminding me. Q. Absolutely, I will do that. And I am sure she will keep reminding me, as well. At your first deposition in February, you testified that you spent approximately 3 320 to 350 hours reviewing materials in preparation for your role as an expert witness; do you recall that? A. I recall discussing it. I don't recall the exact hours. I'm sure I produced the invoices that had been submitted up until that time, and the number came from adding them up. Q. In May you testified that you spent another 	5 6 7 8 9 10 11 12 13 14 15 16	 Q. (BY MR. FAYNE:) In front of you, you have an exhibit that's marked as Exhibit Number 2, and these are your invoices from I believe it's September, October, and November of 2018; is that correct? A. Yep. That's correct. MR. KRISTAL: Thank you. Q. (BY MR. FAYNE:) And so if we can quickly flip through them. It looks like you spent 19 and a half hours in September working on this case; is that correct? A. Correct. Q. 63 hours in October; is that correct? A. Yes.
6 7 v 8 9 t 10 3 11 r 12 13 e 14 t 15 f 16 17 5	 A. Just keep reminding me. Q. Absolutely, I will do that. And I am sure she will keep reminding me, as well. At your first deposition in February, you testified that you spent approximately 3 320 to 350 hours reviewing materials in preparation for your role as an expert witness; do you recall that? A. I recall discussing it. I don't recall the exact hours. I'm sure I produced the invoices that had been submitted up until that time, and the number came from adding them up. Q. In May you testified that you spent another 50 hours or so at your deposition. Does that sound 	5 6 7 8 9 10 11 12 13 14 15 16 17	 Q. (BY MR. FAYNE:) In front of you, you have an exhibit that's marked as Exhibit Number 2, and these are your invoices from I believe it's September, October, and November of 2018; is that correct? A. Yep. That's correct. MR. KRISTAL: Thank you. Q. (BY MR. FAYNE:) And so if we can quickly flip through them. It looks like you spent 19 and a half hours in September working on this case; is that correct? A. Correct. Q. 63 hours in October; is that correct? A. Yes. Q. And 82 hours in November; correct?
6 7 y 8 9 tt 10 3 11 r 12 13 e 14 tt 15 f 16 17 5 18 a	 A. Just keep reminding me. Q. Absolutely, I will do that. And I am sure she will keep reminding me, as well. At your first deposition in February, you testified that you spent approximately 3 320 to 350 hours reviewing materials in preparation for your role as an expert witness; do you recall that? A. I recall discussing it. I don't recall the exact hours. I'm sure I produced the invoices that had been submitted up until that time, and the number came from adding them up. Q. In May you testified that you spent another 50 hours or so at your deposition. Does that sound about right? 	5 6 7 8 9 10 11 12 13 14 15 16 17 18	 Q. (BY MR. FAYNE:) In front of you, you have an exhibit that's marked as Exhibit Number 2, and these are your invoices from I believe it's September, October, and November of 2018; is that correct? A. Yep. That's correct. MR. KRISTAL: Thank you. Q. (BY MR. FAYNE:) And so if we can quickly flip through them. It looks like you spent 19 and a half hours in September working on this case; is that correct? A. Correct. Q. 63 hours in October; is that correct? A. Yes. Q. And 82 hours in November; correct?
6 7 v 8 9 tt 10 3 11 r 12 13 e 14 tt 15 f 16 17 5 18 a 19	 A. Just keep reminding me. Q. Absolutely, I will do that. And I am sure she will keep reminding me, as well. At your first deposition in February, you testified that you spent approximately 3 320 to 350 hours reviewing materials in preparation for your role as an expert witness; do you recall that? A. I recall discussing it. I don't recall the exact hours. I'm sure I produced the invoices that had been submitted up until that time, and the number came from adding them up. Q. In May you testified that you spent another 50 hours or so at your deposition. Does that sound about right? A. Yeah. 	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 Q. (BY MR. FAYNE:) In front of you, you have an exhibit that's marked as Exhibit Number 2, and these are your invoices from I believe it's September, October, and November of 2018; is that correct? A. Yep. That's correct. MR. KRISTAL: Thank you. Q. (BY MR. FAYNE:) And so if we can quickly flip through them. It looks like you spent 19 and a half hours in September working on this case; is that correct? A. Correct. Q. 63 hours in October; is that correct? A. Yes. Q. And 82 hours in November; correct? A. Yes. Q. So in total you've spent over 500 hours on
6 7 v 8 9 t 10 3 11 r 12 13 e 14 t 15 f 16 17 5 18 a 19 20	 A. Just keep reminding me. Q. Absolutely, I will do that. And I am sure she will keep reminding me, as well. At your first deposition in February, you testified that you spent approximately 3 320 to 350 hours reviewing materials in preparation for your role as an expert witness; do you recall that? A. I recall discussing it. I don't recall the exact hours. I'm sure I produced the invoices that had been submitted up until that time, and the number came from adding them up. Q. In May you testified that you spent another 50 hours or so at your deposition. Does that sound about right? A. Yeah. Q. Do you recall roughly how much time you spent 	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 Q. (BY MR. FAYNE:) In front of you, you have an exhibit that's marked as Exhibit Number 2, and these are your invoices from I believe it's September, October, and November of 2018; is that correct? A. Yep. That's correct. MR. KRISTAL: Thank you. Q. (BY MR. FAYNE:) And so if we can quickly flip through them. It looks like you spent 19 and a half hours in September working on this case; is that correct? A. Correct. Q. 63 hours in October; is that correct? A. Yes. Q. And 82 hours in November; correct? A. Yes. Q. So in total you've spent over 500 hours on Roundup-related litigation. Does that sound about
6 7 y 8 9 tt 10 3 11 r 12 13 e 14 tt 15 f 16 17 5 18 a 19 20 21 y	 A. Just keep reminding me. Q. Absolutely, I will do that. And I am sure she will keep reminding me, as well. At your first deposition in February, you testified that you spent approximately 3 320 to 350 hours reviewing materials in preparation for your role as an expert witness; do you recall that? A. I recall discussing it. I don't recall the exact hours. I'm sure I produced the invoices that had been submitted up until that time, and the number came from adding them up. Q. In May you testified that you spent another 50 hours or so at your deposition. Does that sound about right? A. Yeah. Q. Do you recall roughly how much time you spent working on the Roundup-related litigation between your 	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 Q. (BY MR. FAYNE:) In front of you, you have an exhibit that's marked as Exhibit Number 2, and these are your invoices from I believe it's September, October, and November of 2018; is that correct? A. Yep. That's correct. MR. KRISTAL: Thank you. Q. (BY MR. FAYNE:) And so if we can quickly flip through them. It looks like you spent 19 and a half hours in September working on this case; is that correct? A. Correct. Q. 63 hours in October; is that correct? A. Yes. Q. And 82 hours in November; correct? A. Yes. Q. So in total you've spent over 500 hours on Roundup-related litigation. Does that sound about right?
6 7 v 8 9 tt 10 3 11 r 12 13 e 14 tt 15 f 16 17 5 18 a 19 20 21 v 22 c	 A. Just keep reminding me. Q. Absolutely, I will do that. And I am sure she will keep reminding me, as well. At your first deposition in February, you testified that you spent approximately 3 320 to 350 hours reviewing materials in preparation for your role as an expert witness; do you recall that? A. I recall discussing it. I don't recall the exact hours. I'm sure I produced the invoices that had been submitted up until that time, and the number came from adding them up. Q. In May you testified that you spent another 50 hours or so at your deposition. Does that sound about right? A. Yeah. Q. Do you recall roughly how much time you spent working on the Roundup-related litigation between your deposition in May and the end of August? 	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Q. (BY MR. FAYNE:) In front of you, you have an exhibit that's marked as Exhibit Number 2, and these are your invoices from I believe it's September, October, and November of 2018; is that correct? A. Yep. That's correct. MR. KRISTAL: Thank you. Q. (BY MR. FAYNE:) And so if we can quickly flip through them. It looks like you spent 19 and a half hours in September working on this case; is that correct? A. Correct. Q. 63 hours in October; is that correct? A. Yes. Q. And 82 hours in November; correct? A. Yes. Q. So in total you've spent over 500 hours on Roundup-related litigation. Does that sound about right? A. Sounds about right.
6 7 y 8 9 tt 10 2 11 r 12 13 e 14 tt 15 f 16 17 5 18 a 19 20 21 y 22 c 23	 A. Just keep reminding me. Q. Absolutely, I will do that. And I am sure she will keep reminding me, as well. At your first deposition in February, you testified that you spent approximately 3 320 to 350 hours reviewing materials in preparation for your role as an expert witness; do you recall that? A. I recall discussing it. I don't recall the exact hours. I'm sure I produced the invoices that had been submitted up until that time, and the number came from adding them up. Q. In May you testified that you spent another 50 hours or so at your deposition. Does that sound about right? A. Yeah. Q. Do you recall roughly how much time you spent working on the Roundup-related litigation between your deposition in May and the end of August? A. No. I'd have to look at my invoices. 	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Q. (BY MR. FAYNE:) In front of you, you have an exhibit that's marked as Exhibit Number 2, and these are your invoices from I believe it's September, October, and November of 2018; is that correct? A. Yep. That's correct. MR. KRISTAL: Thank you. Q. (BY MR. FAYNE:) And so if we can quickly flip through them. It looks like you spent 19 and a half hours in September working on this case; is that correct? A. Correct. Q. 63 hours in October; is that correct? A. Yes. Q. And 82 hours in November; correct? A. Yes. Q. So in total you've spent over 500 hours on Roundup-related litigation. Does that sound about right? A. Sounds about right. Q. More than 600 hours?
6 7 v 8 9 tt 10 3 11 r 12 13 e 14 tt 15 f 16 17 5 18 a 19 20 21 v 22 c	 A. Just keep reminding me. Q. Absolutely, I will do that. And I am sure she will keep reminding me, as well. At your first deposition in February, you testified that you spent approximately 3 320 to 350 hours reviewing materials in preparation for your role as an expert witness; do you recall that? A. I recall discussing it. I don't recall the exact hours. I'm sure I produced the invoices that had been submitted up until that time, and the number came from adding them up. Q. In May you testified that you spent another 50 hours or so at your deposition. Does that sound about right? A. Yeah. Q. Do you recall roughly how much time you spent working on the Roundup-related litigation between your deposition in May and the end of August? 	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Q. (BY MR. FAYNE:) In front of you, you have an exhibit that's marked as Exhibit Number 2, and these are your invoices from I believe it's September, October, and November of 2018; is that correct? A. Yep. That's correct. MR. KRISTAL: Thank you. Q. (BY MR. FAYNE:) And so if we can quickly flip through them. It looks like you spent 19 and a half hours in September working on this case; is that correct? A. Correct. Q. 63 hours in October; is that correct? A. Yes. Q. And 82 hours in November; correct? A. Yes. Q. So in total you've spent over 500 hours on Roundup-related litigation. Does that sound about right? A. Sounds about right.

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	conridentiar char		
	Page 18		Page 20
1	for the plaintiffs in these cases; is that correct?	1	something, an event that's being discussed, I would ask
2	A. Yes, sir.	2	for more documentation either before or after a
3	Q. So over the course of the Roundup litigation,	3	particular date on a MONGLY document.
4	you've been paid more than \$150,000. Does that sound	4	Typically I would send those requests to either
	right?	5	Jeff Travers of The Miller Firm, or Jerry Kristal. I
6	A. I yeah, I'm sure it's a bit more than that,	6	believe I sent a few such requests to David Wool with
7	-		Andrus Wagstaff. And usually within a day or two I
8	Q. More than \$200,000?	8	would get a dump of documents and I would go through
9	A. I don't think so.	9	those, and often the new documents would lead to
10	Q. So you think it's somewhere between 150 and	10	additional questions for further material.
11	\$200,000?	11	Q. The testimony that you just gave, you're
12	A. Yeah.	12	referring to the course of the entire your
13	MR. KRISTAL: Also assumes the invoices have	13	entire your work on this entire litigation; correct?
	been paid.	14	A. Well, yes. In the throughout my work on the
15	Q. Have the invoices been paid?		Johnson case, the person that I typically requested to
16	A. Well, not all of them. Most of them.	16	do searches and send me new documents was Jeff Travers
17	Q. And your expectation is that the invoices will	17	at the Miller group, but in the last six or eight
18	be paid; correct?	18	months, Jerry Kristal has served that role in helping
19	A. Yes.	19	me.
20	Q. At your some of your earlier depositions,	20	Q. So I'd like to focus you on the period of time
	you testified that it's a very large record and you hope		since the Johnson trial; okay?
	to have the opportunity to dig deeper into it as the	22	A. That would be fine.
	case went on; is that correct?	23	Q. In that period of time, have you asked
24			-
24	A. That is correct.		Mr. Kristal for additional documents on topics relevant
25	Q. And you've now produced a new expert report for	25	to this litigation?
	Page 19		Page 21
	i ugo i j		1 450 21
1	the Stevick, Hardeman and Gebeyehou cases; correct?	1	A. Yes.
1	-	1 2	-
	the Stevick, Hardeman and Gebeyehou cases; correct?		A. Yes.
2 3	the Stevick, Hardeman and Gebeyehou cases; correct? A. That is correct.	2	A. Yes.Q. Do you recall what topics you asked for
2 3	the Stevick, Hardeman and Gebeyehou cases; correct?A. That is correct.Q. In preparing that new report, have you had the	2	A. Yes.Q. Do you recall what topics you asked for additional documents on?A. Oh, well, at least a dozen. Most of the major
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 the Stevick, Hardeman and Gebeyehou cases; correct? A. That is correct. Q. In preparing that new report, have you had the opportunity to dig deeper into the record? A. Yes. Q. Did that include review of Bates-numbered documents I'll refer to them as "MONGLY documents." A. Yes. MR. KRISTAL: It's M-O-N-G-L-Y, all caps. MR. FAYNE: Thank you. MR. KRISTAL: I always notice when the court reporters wince. Q. (BY MR. FAYNE:) How did you find the new documents that you reviewed? A. Documents have come to me in a variety of different ways. I have had for many years extensive files of my own, particularly EPA documents. Some of those also appear in the record as MONGLY documents. I as I have worked through the record, I have identified particular issues that I have felt are important for me to address thoroughly, the issues I've been asked to look at, and I when I feel that there's likely more in the record or when there's a reference to 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. Yes. Q. Do you recall what topics you asked for additional documents on? A. Oh, well, at least a dozen. Most of the major areas that are covered in my report. Stewardship, the assessment of the cancer assays and genotoxicity, the sum of the incident report documents, a variety of documents involving surfactants. I've asked multiple times for documents relating to studies done on skin penetration. And as I said, pretty much in almost all of the substantive sections of my expert report there are some new material that I accessed and reviewed and has helped inform my opinions in the current version of my report. Q. To the extent you're relying on any of those new documents, are they cited either in your report or in your reliance list? A. They are. MR. KRISTAL: And to a certain extent in the reference list, as well, that was provided subsequent to the report.

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	Daga 22		Page 24
1	Page 22 MR. FAYNE: I understand.	1	0
		1	expert report that you produced in the Hardeman, Stevick
2	MR. KRISTAL: Okay.		and Gebeyehou cases; correct? A. Yes.
3	Q. (BY MR. FAYNE:) You also had a supplemental	3	
4	J I I I I I I I I I I I I I I I I I I I	4	Q. And it's approximately 166 pages, 787 numbered
5	A. Correct.	5	paragraphs. Does that sound about right?
6	Q in connection with this deposition; correct?	6	A. Sounds about right.
7	A. Yes.	7	MR. FAYNE: This is not the only I'm sorry,
8	Q. So they might also be listed there, as well?	8	Counsel. Let me give you a copy.
9	A. And there might even be one or two that didn't	9	THE WITNESS: And I believe you've been
10	make the list.		1 5
11	Q. So there might be documents that you're relying		e-mailed to you, maybe.
	upon for your expert opinion that you have not disclosed	12	MR. ESFANDIARY: Yes. I sent it to you last
	in any of your reliance lists?		night. Sent them to
14	A. There might be. I'd it would be very hard	14	THE WITNESS: Just typos, errata sheet.
	to tell. I've looked at thousands of documents up until	15	MR. FAYNE: I have not received that, but we
16	now.	16	can talk about that off the record.
17	Q. In preparing for your deposition today, did you	17	THE WITNESS: Okay. We'll get it to you.
18	review transcripts from your prior depositions?	18	MR. KRISTAL: I may have a copy, actually.
19	A. Yes.	19	This had been e-mailed to I'm not sure which counsel
20	Q. Did you review transcripts from the Johnson	20	last night.
21	trial?	21	MR. ESFANDIARY: E-mailed to Pamela Yates and
22	A. No.	22	Julia DuPont, I believe, at Arnold Porter.
23	Q. Which deposition transcripts did you review, if	23	MR. FAYNE: Yes. Thank you.
24	you recall?	24	Q. (BY MR. FAYNE:) So Exhibit 3 is your expert
25	A. You're speaking about my depositions?	25	report in these cases; correct?
-	Page 23		Page 25
1	-	1	A. Yes.
	Q. Yeah. I'm sorry. Yes. So you testified that	1	A. Yes.
2	-	2	A. Yes.Q. And when I refer to "these cases," you'll
2	Q. Yeah. I'm sorry. Yes. So you testified that you reviewed some of your prior deposition transcripts;	2	A. Yes.Q. And when I refer to "these cases," you'll understand that I mean the Hardeman, Stevick and
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2 3 4 5	 Q. Yeah. I'm sorry. Yes. So you testified that you reviewed some of your prior deposition transcripts; correct? A. Correct. Q. Which ones? A. All of them. 	2 3 4 5 6	 A. Yes. Q. And when I refer to "these cases," you'll understand that I mean the Hardeman, Stevick and Gebeyehou cases? A. Yes, sir. Q. If I'm not referring to those specific cases,
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Page 26Page 271 questions.2Stevick, Hardeman and Gebeyehou cases; correct?2 MR, KRISTAL: TI instruct you not to -111 3. No, Thave you ever met Mr. and Mrs. Stevick?3 instruct you next time.4. No, Thave not.5 Q. (BY MR, FAYNE): Your expert report in these9. Have you ever met Mr. Hardeman?6 case: correct stopics that are similar to those addressed9. What about Mr. Gebeyehou?8 A. Yes.9. What about Mr. Gebeyehou?9 Q. And us we discussed previously, the work that9. O. Ever spoken to any of them?10 you did in the Johnson case was useful as you prepared10. Have you reviewed the legal complaints that12 A. Of course it was.13. Q. Fars poken to any of them?13 A. Yes.13. A. Pershaps scanned them. I don't recall if I14 A. Yes.14. Krust-IX: No. No.15 Or Presumably that meant that you were able to15. Q. So fair to say that you're not relying upon16 druft this copert report in less time than your Johnson report and the19. Q. Nan you ever reviewed the transcripts of their17 meptri: correct?19. A. It was18 A. It was10. The work you report did not include any opinions that21 completion of this one, just off the top of my head, I22 would asy I probebly have sept at rougbly comparation?23 Mark KISTAL: No. No.24 Mark wives of these matters of my opinions in a more25 more that took a lot of time.26 ther mich wives of these matters of my opinions in a more27 hore this way in the current version of the28 charpert, and hat took a lot of time.29				•
2 THE WTTNESS: Oh, okay. 3 Q. Har WTTNESS: Oh okay. 3 Q. Har word were time. 3 Q. Har word were time. 3 Q. Har word were time. 3 Q. Har word were met Mr. Hardeman? 6 5 Q. (BY MR. FAYNE): Your expert report in these cases covers topics that are similar to those addressed 5 Q. Har word were met Mr. Hardeman? 6 A. No. 1 9 Q. And as we discussed previously, the work that 0 Q. What about Mr. Gebeychou? 8 A. No. 1 10 you did in the Johnson case was useful as you prepared 13 A. Yes. 14 A. Yes. 14 A. Yes. 15 Q. Hare you ever met Mr. Hardeman? 6 A. No. 1 13 A. Or you were able to reuse certain sections? 13 A. No. 1 14 A. Yes. 15 Q. So fair to say that you're not relying upon 16 them in issuing your expert opinion? 16 them in issuing your expert opinion? 17 17 A. No. 1 18 Q. Hare you ever reviewed the transcripts of their 19 Q. Hare you ever reviewed the transcripts of their 19 19 10 Hare you ever reviewed the transcripts of their 19 10 10 10 10 10		Page 26		Page 28
3 MR. KRISTAL: FII instruct you not to FII 3 Q. Have you ever met Mr. and Mrs. Stevick? 4 instruct you next time. 5 Q. (BY MR. FAYNE): Your expert report in these 6 Q. MW R. FAYNE): Your expert report in these 6 Q. Have you ever met Mr. Hardeman? 6 Q. Mad as we discussed previously, the work that 9 Q. Ever spoken to any of them? 10 you did in the Johnson correct? 8 A. No. 11 this expert report; correct? 10 A. No. 12 Q. And you were able to reuse certain section? 11 4 A. Yes. 13 Q. Have you ever met Mr. Hardeman? 6 A. No. 14 A. Yes. 9 Q. Ever spoken to any of them? 10 15 Q. Focumably that meant that you were able to 11 14 reviewed it in any detail. 12 15 Q. Presumably that meant that you ware able to 13 Q. Have you reviewed the transcripts of their 16 draft this expert report, was somewhat less work, but 12 14 reviewed it in any detail. 12 17 Port: THE WITNESS: Did you want to say something? 14 Q. Your report did not	1	*	1	Stevick, Hardeman and Gebeyehou cases; correct?
4 A. No, 1 have not. 5 Q. (BY MR, FAYNE:) Your expert report in these cases covers topics that are similar to those addressed 7 In Johnson; correct? 8 A. Yes. 9 Q. And as we discussed previously, the work that 10 you did in the Johnson case was useful as you prepared 11 his expert report; correct? 13 Q. And you were able to reuse certain sections? 14 A. Yes. 15 Q. Presumably that meant that you wore able to 16 draft this expert report in less: time thany our Johnson 17 THE WITNESS: Did you want to say something? 10 THE WITNESS: Did you want to say something? 11 would say I probably have spent a roughly comparable 22 onphetion of this one, just off the top of my head, 1 12 the sections are, I think, substantially refined, and 13 A. Size as pacific to Mr. and Mrs. Stevick; correct? 14 way sets. 15 Q. Bost this report is new, all of 14 requests? 2 Q. What about their responses to discovery 23 A. No. 24 No. Staii	2		2	A. Yes.
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7 in Johnson; correct? 7 Q. What about Mr. Gebeyehou? 8 A. Yes. 8 A. No. 10 you did in the Johnson case was useful as you prepared 1 A. No. 11 this expert report; correct? 10 A. No. 12 A. Of course it was. 12 Q. Have you reviewed the legal complaints that 13 Q. And you were able to reuse certain sections? 13 A. Perhaps scanned them. I don't recall if 1 14 A. Yes. 14 reviewed it in any detail. 15 Q. Presumably that meant that you were able to reuse certain sections? 14 A. It was - 13 A. It was - 14 reviewed it in any detail. 15 Q. Presumably that meant that you were able to reuse certain sections? 14 A. No. 14 THE WITNESS: Did you want to say something? 19 Quepositions? 20 A. No. 21 I - between the filing of my Johnson report and the sections are, I think, substantially refined, and 14 21 A. No. 22 So while not all of this report is new, all of 2 A. Yes. 2 Q. Same for Mr. Gebeychou? 5 A. Yes. <	5	Q. (BY MR. FAYNE:) Your expert report in these	5	Q. Have you ever met Mr. Hardeman?
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	Page 30		Page 32
1	Q. I also understand that you're relying on a few		on your updated reference list?
2	documents that are cited in your report that might not	2	A. Yes. And it would include the documents
3	be on this reliance list; is that correct?	3	presented as exhibits during my trial testimony and
4	A. That's that's likely true.	4	various exhibits in my depositions and the depositions
5	Q. And to the extent you're relying on those	5	I
6	documents, they're cited in the report; correct?	6	Q. Could you turn to page 8 of your reliance list?
7	A. Correct.	7	A. This is back in the report?
8	Q. Are you relying on any documents that were	8	Q. Back in the report, yes. So this is Exhibit 3,
	cited in the prior version of your report that are not	9	page 8 of the reliance list.
10	cited in this report?	10	A. Yeah. Yeah. Got it.
11	A. Oh, geez. It possibly.	11	MR. KRISTAL: Did I steal yours? I apologize.
12	Q. You can't say one way or the other sitting here	12	MR. FAYNE: No problem. This one seems to be
13	today?	13	working.
14	A. Well, I know that in the interest of trying to	14	Q. (BY MR. FAYNE:) So you'll see towards the
15	shorten the report and especially in light of the added	15	bottom of this list, there are a number of documents
16	material, there are there is some substantial	16	listed as public document; correct?
17	passages from the Johnson expert report that are not in	17	A. Correct.
18	this report.	18	Q. And that goes on to page 9, as well?
19	And there may have been some MONGLY documents	19	A. Correct.
20	cited in the Johnson report, but I would	20	Q. Would you agree that it would be difficult for
21	still because I read them and they helped inform my	21	someone looking at this list to identify which documents
22	opinions, they still form the basis of the opinions in	22	you're referring to?
23	the current report even though they're not cited.	23	A. It would be indeed. My apologies.
24	Q. Do you know whether those documents are cited	24	Q. Are you able to identify which documents these
25	in your reliance list or updated reliance list?	25	are referring to?
-	Page 31		Page 33
1	-		1 age 55
	A Probably are I've tried to be cumulative with	1	A I know I can describe them in general Would
	A. Probably are. I've tried to be cumulative with it	1	A. I know I can describe them in general. Would that be helpful?
2	it.	2	that be helpful?
2 3	it. Q. And over the past 30 years, I understand that	2 3	that be helpful? Q. I don't need you to do that sitting here today,
2 3 4	it. Q. And over the past 30 years, I understand that you've also reviewed a number of documents that have	2 3 4	that be helpful?Q. I don't need you to do that sitting here today,but you'd be able to update this list so that it would
2 3 4 5	it. Q. And over the past 30 years, I understand that you've also reviewed a number of documents that have informed your general thinking on pesticides and	2 3 4 5	that be helpful?Q. I don't need you to do that sitting here today,but you'd be able to update this list so that it wouldbe easier for someone to understand what you're
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	conridential char		,
,	Page 34	1	Page 36
		1	A. No.
2	Ĩ	2	Q. And you are not a toxicologist; correct?
3	Q. So I'd like to ask you some questions now about your credentials. I understand that some of these have	3	A. I'm not a practicing toxicologist. I am an
	been asked in the past, but I just want to confirm that	5	expert in the role of toxicology data in the assessment of pesticide risk and the types of studies that are
	nothing has changed. I'll try to get through this	6	
	section as quickly as possible.	7	
8	A. Thank you.	8	pesticide regulation. So from for that aspect of the
9	Q. I understand counsel's concern.		
10	You've never been employed by the Environmental	9 10	Q. How did you become an expert in that aspect of
	Protection Agency; correct?		toxicology?
12	MR. KRISTAL: Don't answer that question.	12	A. Through research.
13	If you want to ask since the last deposition	13	Q. Reviewing public literature?
14		14	A. Public literature, some some studies done by
15	employed, that's a good question. Otherwise we're not	15	registrants, interactions with scientists, and
	going to go through every single thing that's been		
16 17		16 17	engagement with the issues and other scientists over the last four decades.
18	MR. FAYNE: Are you	18	Q. Have you ever designed a toxicology study?
19	MR. KRISTAL: Yes, I'm instructing him not to	19	A. No.
20		20	Q. Have you ever conducted a toxicology study?
21		21	A. No.
	that question. That's fair.	22	Q. You're not an epidemiologist; correct?
23	Q. (BY MR. FAYNE:) You've never been employed by	23	MR. KRISTAL: Not since the last time he's been
	the FDA; correct?		asked that question.
25	A. Same.	25	A. Sir, if I had training in a field of that
	Page 35		Page 37
1	j		nature, it would be on my résumé.
2		2	Q. So since your last deposition, you have not
	5		received any formal training or degree in epidemiology;
4	MR. FAYNE: So just for the record, you're		correct?
	instructing the witness not to answer?	5	A. As you will note, there's been no update in my
6			résumé that indicates that I've had such training.
		7	Q. So you've received no formal training or degree
8			in epidemiology?
9	,	9	A. Correct.
	within the last couple of months. So if you want to ask	10	Q. Since your last deposition, you've not received
	since then, that's fair. Otherwise, it is harassment.	11	
12	Q. (BY MR. FAYNE:) Since your last deposition, I	12	A. Correct.
13	assume you've not received any training in medicine;	13	Q. You're not a pathologist?
14	correct?	14	A. I am not a pathologist.
115	A Correct	15	Q. Do you have any formal training or degree in
15	A. Correct.	16	avposure assessment?
16	Q. Since your last deposition, you've not received	16	I
16 17	Q. Since your last deposition, you've not received any formal training or degree in any physical science;	17	A. No.
16 17 18	Q. Since your last deposition, you've not received any formal training or degree in any physical science; correct?	17 18	A. No.Q. You do not claim to be an expert in exposure
16 17 18 19	Q. Since your last deposition, you've not received any formal training or degree in any physical science; correct?A. No.	17 18 19	A. No.Q. You do not claim to be an expert in exposure assessment; correct?
16 17 18 19 20	Q. Since your last deposition, you've not received any formal training or degree in any physical science; correct?A. No.Q. And you are not being designated as an expert	17 18 19 20	A. No.Q. You do not claim to be an expert in exposure assessment; correct?A. Other than the role that exposure assessment
16 17 18 19 20 21	Q. Since your last deposition, you've not received any formal training or degree in any physical science; correct?A. No.Q. And you are not being designated as an expert in this case in any physical science; is that correct?	17 18 19 20 21	A. No.Q. You do not claim to be an expert in exposure assessment; correct?A. Other than the role that exposure assessment methodologies play in the pesticide risk assessment
16 17 18 19 20 21 22	 Q. Since your last deposition, you've not received any formal training or degree in any physical science; correct? A. No. Q. And you are not being designated as an expert in this case in any physical science; is that correct? A. No. 	17 18 19 20 21 22	A. No.Q. You do not claim to be an expert in exposure assessment; correct?A. Other than the role that exposure assessment methodologies play in the pesticide risk assessment process, the data that's generated by registrants in
16 17 18 19 20 21 22 23	 Q. Since your last deposition, you've not received any formal training or degree in any physical science; correct? A. No. Q. And you are not being designated as an expert in this case in any physical science; is that correct? A. No. Q. Since your last deposition, you haven't 	17 18 19 20 21	 A. No. Q. You do not claim to be an expert in exposure assessment; correct? A. Other than the role that exposure assessment methodologies play in the pesticide risk assessment process, the data that's generated by registrants in compliance with data requirements on the exposure side.
16 17 18 19 20 21 22 23 24	 Q. Since your last deposition, you've not received any formal training or degree in any physical science; correct? A. No. Q. And you are not being designated as an expert in this case in any physical science; is that correct? A. No. 	17 18 19 20 21 22 23 24	A. No.Q. You do not claim to be an expert in exposure assessment; correct?A. Other than the role that exposure assessment methodologies play in the pesticide risk assessment process, the data that's generated by registrants in

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Page 33 Page 40 1 understand the tooks and the methods. It am - have a 1 Q. Other than dietary exposures, have you designed 2 deep background in the evolution of analytical chemistry 3 A. I haven't designed in exposure assessment. 3 variety of marrices and regard myself as an expert in 5 second of them and several exposure assessment. 5 de exposure - exposures to posticides, including an 5 second of them and several exposure assessment. 6 exposure - exposures to posticides, including an 5 second of them and several exposure assessment. 9 any other lingiation on exposure specifically 1 second of them and several exposure assessment. 10 A. I've been qualified as an expert in cxposure assessment. 10 Soure assessment. 11 designated as a - as an expert in cxposure assessment. 12 Q. What about a dermal exposure exposure 12 entation methodis mad excerction? 13 you way thore a different? 14 as least Idvin remember ever hem. 15 Q. What about adermal exposure exposure 13 designated as a - as an expert in ADME; Q. Ou And you dort laim to be an expert in ADME; </th <th></th> <th></th> <th>СБЕ</th> <th></th>			СБЕ	
 deep background in the evolution of analytical chemistry deep background in the evolution of analytical chemistry derived to quantify the levels of pesticides in a variety of matrices and regard myself as an expert in the general tools and methods utilized to estimate exposure - exposures to pesticides, including an particidic like glyphosite. Q. Have you ever been qualified as an expert in any other fligation on exposure assessment. any other fligation on exposure assessment. Q. So you have never designed a dermal exposure several of them and several exposure assessment. Q. Not exposure assessment in cases where several of them and several exposure assessment. Q. Not have any specifically the case, but waven specifical provide and any expert report d. A. The to ease, but waves the specifical provide and accretion? d. A. Then of aware of any formal degrees or training in d. ADME, which, as you know, stands for absorption, d. And you don't claim to be an expert in ADME; and you don't claim to be an expert in ADME; guerestanding the record in this case that relates to the exbrivor of glyphosate herbicicle and formulated herbicides in plant matrices, human skin, et cetera, and the exbrivor of glyphosate herbicicle and formulated herbicides in plant matrices, human skin, et cetera, and the exbrivor of glyphosate herbicicle and formulated hardy or and risk assessment of Q. What about law? A. Trin advir gene through law school in the the evrinoment. Q. What about law? A. Throu about law? Q. Hwat about alw? A. Throu about alw? Q. Hwat about alw? Q. Hwat about alw? Q. Hwat about alw? Q. Hwat about alw? A. Trin about and massessment of de corporate ethics; c		Page 38		-
3 A. I haven't designed an exposure assessment 4 3 A. I haven't designed an exposure assessment 4 study, but IVe certainly reviewed and worked with 6 exposure - exposures to pesticides, including an 7 herbicide like glyphosate. 5 9 Q. Have you ever been qualified as an expert in any other hitigation on exposure assessment? 5 10 A. Ty been qualified as an expert in any other hitigation on exposure assessment? 5 11 A. Correct. 9 12 optimize as an expert in exposure assessment. 5 13 designated as a - as an expert in exposure assessment. 5 14 as least I don't remember ever being. 16 15 Q. Doy on have any formal degrees in that 19 16 ADME, work, has yoo know, stunds for maborption. 17 17 A. Okay. 18 28 and you don't claim to be an expert in ADME; 29 Q. Mad you don't claim to feat pute spate for admetas and feat pute capable of 29 Mark is assessment and feed quite capable of 20 Andi in	1	understand the tools and the methods. I am have a	1 Q.	Other than dietary exposures, have you designed
4 variety of matrices and regard myself as an expert in 5 several of them and several exposure assessments in EPA 5 exposures to possitively, including an 5 several of them and several exposure assessments in EPA 6 under your over been qualified as an expert in 9 several of them and several exposure assessments 10 A. Twe been qualified as an expert in cases where 10 study, for instance? 11 exposure assessment was one of the issues 9 U. So yon have never designed a dermal exposure 12 entailed in the case, but I wasn't specifically 13 designated as a - as an expert in exposure assessment, 13 designated as a - as an expert in exposure assessment, 14 N. Correct. 14 A. Sume answer. 15 Q. Do yon have any formal degrees or training in 15 Q. Do yon have any formal degrees in that 15 d. A CMay. 16 adDME, which, as you know, stunds for absorption, 16 which we've marked as Eabibit 3. 17 A. Dream 20 A. adj you don't claim to be an expert in ADME; 12 or correct? 20 A. adj you don't claim to be an expert in ADME; 21 order standing within that area of 20 A. May ou don't claim to be an expert in ADME; 22 order advis in plant matrices, human skin, et cetera, and 20 down aver terport. 23 betricides in plant matrices, human skin, et cetera, and 10 Q. For your com	2	deep background in the evolution of analytical chemistry	2 risk as	ssessment for any other types of exposures?
5 the general tools and methods utilized to estimate 5 several of them and several exposure assessments in EPA 6 exposure - exposures to posticides, including an 6 regulatory documents which has given me a firm grounding 7 berbrick lek glyphosate. 6 regulatory documents which has given me a firm grounding 9 Q. Have you ever been qualified as an expert in cases where 1 8 assessment. 12 entailed in the case, but 1 wasn't specifically 11 A. Correct. 12 Q. What about a dermal penetration study, in case 13 dosignated as a - us an expert in exposure assessment, 11 A. Correct. 12 A. The not aware of any formal degree or training in 16 ADME, which, as you know any formal degree or training in 16 Main field, but - and no, I have none. 17 A. Correct. 12 correctifield, but - and no, I have none. 19 Q. Would you turn to page 21? I'm sorry, page 20 14 a hay gou dict clain to be an expert in ADME; 10 A. May: 21 correctifield, but - and no, I have nore 22 analysis of genotoxicity studies relied on by IARC; is that a fair 24 patricular field, but - and no, I have expert in ADME; 10	3	methods used to quantify the levels of pesticides in a	3 A.	I haven't designed an exposure assessment
6 exposure - exposures to pesticides, including an 6 regulatory documents which has given me a firm grounding 7 herbicide like glyphosate. 7 in the way that the agency approaches exposure 8 Q. Have you ever been qualified as an expert in 9 Q. So you have never designed a dermal exposure 10 A. Two been qualified as an expert in cases where 10 A. Correct. 12 entiled in the case, but I wasn't specifically 11 A. Correct. 13 designated as a – as an expert in cases where 10 What about a dermal penetration study, in case 13 designated as a – as an expert or training in 12 Q. What about a dermal exposure 14 a loss of not remember ever being. 12 Q. What about a dermal exposure 15 Q. Do you have any formal degrees in that 13 9 Weat watked as Exhibit 3. 15 Q. I dike to um now to your expert report. 20 A. okay. 16 netwich, as you alon't caim the excretion? A. Okay. 17 A. Again, I do have extensive expertite and 13 Q. Would you turn to page 21? I'm sorry, page 20 19 pesticide risk assessment and feel quuite capable of 23 <t< td=""><td>4</td><td>variety of matrices and regard myself as an expert in</td><td>4 study,</td><td>but I've certainly reviewed and worked with</td></t<>	4	variety of matrices and regard myself as an expert in	4 study,	but I've certainly reviewed and worked with
 7 herbicide like glyphosate. 9 G. Have you ever been qualified as an expert in cases where 11 any other liftgation on exposure assessment? 20 A. I've been qualified as an expert in cases where 21 exposure assessment was one of the issues that was 21 entiled in the case, but I wan't specifically 23 designated as a - as an expert in exposure assessment, 24 as least I don't remember ever being. 25 Q. Do you have any formal degree or training in 26 ADME, which, as you know, stands for absorption, 27 distribution, metabolism and excretion? 28 A. Fin not aware of any formal degrees in that 29 guricular field, but - and no, I have none. 20 Q. And you don't chaim to be an expert in ADME; 21 correct? 23 A. Again, I do have extensive expertise in the 24 pesticide risk assessment and feel quite capable of 25 importance of studies failing within that are of 21 directorect? 3 duest adoption, you haven? 3 the environment. 4 Q. Since your last deposition, you haven? 5 R. Correct. 3 (What about law? 4 A. No, I haven't gone through law school in the 20 (T would be pretry impressive if you had. 3 (What about law? 3 (Q. What about law? 4 A. No, I haven't gone through law school in the 3 (D. Have you ever designed an assessment of 3 (D. Have you ever designed an assessment of 4 (A. No, Correct. 3 (D. Have you ever designed an assessment of 4 (A. No, I have you ever designed an assessment of 5 (Q. Have you ever designed an assessment of 6 (corporate ethics; correct? 4 (A. No, I haven't gone through law school in the 3 (D. Have you ever designed an assessment of 4 (A. No, I have you ever designed an assessment of 5 (Q. Have you ever designed an assessment of 6 (corporate	5	the general tools and methods utilized to estimate	5 severa	al of them and several exposure assessments in EPA
 Q. Have you ever been qualified as an expert in a gray other liftgation on exposure assessment? Q. So you have never designed a dermal exposure Q. So you have never designed a dermal exposure util state of a sane expert in exposure assessment. as least I don't remember ever being. Q. Do you have any formal degree or training in A. Trm out awar of any formal degrees in that particular field, but - and no. J have none. Q. And you don't claim to be an expert in ADME; correct? A. Trm out awar of any formal degrees in that particular field, but - and no. J have none. Q. And you don't claim to be an expert in ADME; correct? a. A. Gran dou don't claim to be an expert in ADME; understanding the record in this case that relates to the environment. Q. So you have never designed a dermal exposure Q. And wou don't claim to be an expert in ADME; analysis of genotoxicity studies relied on by EPA as corporate of studies falling within that area of corporate this; correct? A. Correct. Q. So you have never designed a dermal exposure Page 39 the environment. Q. For your comparison you used EPA's September 2016 report instead of the 2017 correct? A. Correct. Q. Not at about law? Q. Not adout law? Q. Twould be pretty impressive if you had. Q. Have you ever conducted an assessment of fe exposure? A. No. 1ast our months. Q. Have you ever conducted an assessment of exposure? A. No. 1ast our gone through law school in the Q. Twould be pretty impressive if you had. Q. Have you ever conducted a scientific exposure Q. In what context? A. No. 1ast our gone through law school in the sassessment? A. No. 1ast our gone through law school in the<	6	exposure exposures to pesticides, including an	6 regula	tory documents which has given me a firm grounding
 9 any other lifigation on exposure assessment? 9 A. Yve been quilified as an expert in cuses where if exposure assessment as one of the issues that was if exposure assessment was no of the issues that was if a select four remember ver being. 14 as least 1 don't member ver being. 15 Q. Do you have any formal degree or training in if ADME, which, as you know, stands for absorption. 16 ADME, which, as you know, stands for absorption. 17 distribution, metabolism and excretion? 18 A. True not aware of any formal degrees in that if a particular field, but - and no, I have none. 20 Q. And you don't claim to be an expert in ADME; 21 correct? 22 A. Again, I do have extensive expertise in the importance of studies falling within that area of importance of glyphosate herbicide and formulated is the environment. 19 Q. Know about law? 10 A. No Mat about law? 21 Q. Hwa about law? 32 A. No, I haven't gone through law school in the is assessment? 33 assessment? 34 A. No, I haven't gone through law school in the is assessment? 34 A. No, I haven't gone through law school in the is report and ong there with that one. 35 Q. You're aware that EPA has published an updated oversion of that issue paper in December 2016 report instead of the 9 2017 report? 34 A. No, I have you ever designed an assessment of 16 exposure? 35 A. Yes, I am. 36 Q. Why did you use t	7	herbicide like glyphosate.	7 in the	way that the agency approaches exposure
10 A. Tye been qualified as an expert in cases where 10 study, for instance? 12 entiled in the case, but I wan't specifically 11 A. Correct. 13 designated as a - as an expert in exposure assessment, 13 you view those as different? 14 as least I don't remember ever being. 15 Q. Doy on have any formal degree or training in 16 ADME, which, as you know, stands for absorption, 16 Mike to turn now to your expert report 18 A. True no at ware of any formal degrees in that 19 Q. Mad you don't chaim to be an expert in ADME; 10 Q. And you don't chaim to be an expert in application of all phylosate herbicide and formulated 10 A. Okay. 12 canadicis falling within that area of 20 Q. And you don't chaim to feel quie capable of 24 pesticider is assessment and feel quie capable of 25 A. Yes. 14 the environment. 10 Q. For your comparison you used EPA's 25 received any formal degree or deceived any formal training in - or degree in 10 Q. Since your last deposition, you haven't 5 received any formal degree or cetters 2 September 2016 report tidet "Glyphosate Isue Paper:	8	Q. Have you ever been qualified as an expert in	8 assess	ement.
11 exposure assessment was one of the issues that was 12 entialed in the case, but I wasn't specifically 13 designated as a as an expert in exposure assessment, 14 as least I don't remember ever being. 15 Q. Do you have any formal degrees or training in 16 ADMF, which, as you know, stands for absorption, 17 A. Same answer. 18 A. Trn not aware of any formal degrees in that 19 particular field, but - and no, I have none. 20 Q. And you don't claim to be an expert in ADME; 21 correct? 22 A. Again, I do have extensive expertise in the 23 importance of studies falling within that area of 24 pesticide risk assessment and feel quite capable of 25 understanding the record in this case that relates to 14 A. Noi 2 Simportance of studies falling within that area of 2 A. Sain, I do have extensive expertise in the 23 inderstanding the record in this case that relates to 16 corporate ethics; correct? 2 A. Correct. 3 Q. What about law?	9	any other litigation on exposure assessment?	9 Q.	So you have never designed a dermal exposure
12 entailed in the case, but I wasn't specifically 12 Q. What about a dermal penetration study, in case 13 designated as a - as an expert in exposure assessment, 13 you view those as different? 14 as least I don't remember ever being. 15 Q. Do you have any formal degrees in that 16 ADME, which, as you know, stands for absorption, 17 distribution, metabolism and excretion? 17 distribution, metabolism and excretion? 16 Would you turn to page 21? I'm sorry, page 20 19 particular field, but and no, I have none. 20 A. dy and on't claim to be an expert in ADME; 21 correct? 20 A. do in this section you've conducted an 22 a. Again, I do have extensive expertise in the 23 angotasta deposition, you haven't 25 understanding the record in this case that relates to 25 A. Creact 24 characterization? 25 A. Yes. 35 Q. What about law? 26 Q. You're aware that EPA has published an updated 4 berysterigent assessment? 4 A. Yes. 5 5 R. What about law? 4 A. Yes. 16 16	10	A. I've been qualified as an expert in cases where	0 study,	for instance?
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	Page 42		Page 44
1	Q. That wasn't important to your analysis?	1	me for since I began working on this case that the
2	A. No. I didn't see enough differences to redo	2	difference in judgment reached by EPA on the
3	the whole analysis.	3	oncogenicity of glyphosate and glyphosate-based
4	MR. FAYNE: I'll mark as Exhibit 6 EPA's 2016	4	herbicides relative to the judgment reached by IARC is a
5	OPP report.	5	central controversy in the case.
6	(Exhibit 6 marked for identification.)	6	And I I wanted to try to understand from a
7	MR. KRISTAL: Was this 6, did you say?	7	scientific point of view what might have led the EPA to
8	MR. FAYNE: 6.	8	reach a different conclusion than IARC, and I designed
9	Q. (BY MR. FAYNE:) Is this the EPA report that	9	my analysis to try to understand what those differences
10	you used for your analysis?	10	were.
11	A. I can't tell if it's the original or the	11	Q. You testified that it was obvious to you that
12	updated one, but you'll tell me, I'm sure.	12	IARC's review was more comprehensive in several ways.
13	Q. If you look at the front cover, it says	13	What were those ways?
14	"September 12th, 2016."	14	A. They relied the IARC working group relied
15	A. Yeah.	15	much more heavily on studies on formulated
16	Q. And that's the version that you used; correct?	16	glyphosate-based herbicides, whereas the EPA's analysis
17	A. Yes, that's the version I used.	17	did not place really hardly any weight on those. And
18	Q. And in your analysis, you were comparing the	18	also, the IARC working group relied much more
19	studies that EPA considered in its genotoxicity	19	extensively on public literature studies appearing in
20	assessment in this 2016 report to those considered by	20	peer-reviewed journals.
21	IARC in Volume 112 of its monographs; correct?	21	Q. Any other ways in which the IARC review was
22	A. Correct.	22	more comprehensive, in your opinion?
23	Q. So let's mark Volume 112 as well just so we	23	A. I think the the IARC report is actually a
24		24	bit more thorough in discussing the strengths and
25	MR. FAYNE: So we'll mark Volume 112 of IARC's		weaknesses of individual studies compared to the EPA
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	Page 43		Page 45
	monographs as Exhibit 7.		report, but it may it just may be that the EPA, in
2	monographs as Exhibit 7. (Exhibit 7 marked for identification.)		report, but it may it just may be that the EPA, in compiling that report, they didn't put in all of the
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	Page 46		Page 48
	and the public literature that were available to them	1	A. Correct.
2	and fell within the guidelines for what they relied on.	2	Q. You didn't refer to any other information in
3	Q. Let's turn to Appendix C of your report, which	3	the report, correct, for purposes of this analysis?
4	I believe lays out your methodology; correct?	4	A. Well, in terms of counting the number of assays
5	A. Okay.	5	in the core tables, yeah, I just used the core tables.
6	Q. And, sorry, I should be more clear. Appendix C	6	Q. And as you just testified, the only input you
7	of your expert report, which we had marked as Exhibit 3.	7	used for your analysis was the core tables; correct?
8	A. Yeah. Okay. I'm there.	8	A. Well, I do address in my analysis the appendix
9	Q. So this appendix lays out the methodology used	9	tables where EPA listed a number of assays on formulated
10	to compare the IARC report to the EPA report; correct?	10	glyphosate-based herbicides, but they also say quite
11	A. Yes.	11	clearly that they they didn't place any weight or
12	Q. Just to make sure I understand exactly what you	12	much weight on them in their analysis.
13	did, you're counting the number of studies cited by IARC	13	Q. Could you show me in your analysis where you
14	and then counting how many of those studies were	14	identified the appendix tables that EPA referred to on
15	considered by EPA; correct?	15	formulated products?
16	A. It's not exactly studies. It's counting the	16	A. It's probably in my report somewhere.
17	number of assays included in the core tables produced by	17	Q. We can you can look for it at a break. I'll
18	EPA in their report, and then I did essentially the same	18	represent to you
19	analysis of the core tables produced by the IARC working	19	MR. KRISTAL: He's not going to look for it at
20	group.	20	a break. If you want him to do it now, a break is for a
21	Several studies report assay results on in	21	· · · · · · · · · · · · · · · · · · ·
22	more than one cell line. Some studies report assay		like.
23	results on technical glyphosate and formulated	23	THE WITNESS: As you know, I've gone to
24	glyphosate-based herbicides. A few include data on	24	MR. KRISTAL: Is that what you want him to do?
	AMPA.	25	MR. FAYNE: No. That's all right.
			ivite i i i i i i i i i i i i i i i i i i
	$\mathbf{D}_{2} = 47$		D 10
	Page 47		Page 49
1	So the total number of assay results that	1	MR. KRISTAL: Okay.
1 2	-	2	MR. KRISTAL: Okay. Q. (BY MR. FAYNE:) Tables 5.1 through 5.7 in the
	So the total number of assay results that	2	MR. KRISTAL: Okay.
2	So the total number of assay results that appear in both the EPA core tables and the IARC core	2 3	MR. KRISTAL: Okay. Q. (BY MR. FAYNE:) Tables 5.1 through 5.7 in the
2 3 4	So the total number of assay results that appear in both the EPA core tables and the IARC core tables exceed the number of studies cited.	2 3	MR. KRISTAL: Okay. Q. (BY MR. FAYNE:) Tables 5.1 through 5.7 in the EPA report address studies on glyphosate technical;
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	Page 50		Page 52
1	-	1	C C
	glyphosate-based formulations and AMPA that IARC		conducted in non-mammalian species (example, worms,
	considered		fish, reptiles, plants) were excluded because they were
3	A. Correct.	3	86
4	Q is that fair?	4	
5	Can you turn to page 21 of your report,	5	Do you see that?
6	paragraph 63?	6	A. Actually, I don't. You're talking page 98?
7	A. Back to there, okay. You said page 21?	7	Q. Yes, of the OPP report.
8	Q. Yes, paragraph 63.	8	MR. KRISTAL: Can you just give us which
9	A. Got it.	9	paragraph?
10	Q. You state, "Of the approximate 120 genotoxicity	10	MR. FAYNE: It's the bottom of the second full
11	studies in all categories cited by IARC, EPA cited about		paragraph.
12	50 in its 2016 report or about 42 percent of those	12	THE WITNESS: Oh, okay. I was in the bottom
13		13	paragraph. I'm sorry.
14	Did I read that correctly?	14	Q. (BY MR. FAYNE:) So I'll read that again. It
15	A. Yes.	15	
16	Q. When you say "in all categories cited by IARC,"	16	species (example, worms, fish, reptiles, plants) were
17	you're referring to glyphosate technical,	17	excluded because they were considered to be not relevant
18	glyphosate-based formulations, and AMPA; correct?	18	for informing genotoxic risk in humans."
19	A. Correct.	19	Do you see that?
20	Q. Only 55 of those 120 genotoxicity studies cited	20	A. Yes, I do.
21	by IARC fell into mammalian categories; correct?	21	Q. And did I read that correctly?
22	A. Yeah. That's in a subsequent paragraph, I	22	A. You did.
23	assume.	23	Q. So EPA excluded studies from its analysis that
24	Q. Yep.	24	were on non-mammalian species; correct?
25	A. Yes, sir.	25	A. That is correct.
	Page 51		Page 53
1	Page 51 O Yes. That's paragraph 64 where you state that	1	Page 53 O And that's because it concluded that those
1	Q. Yes. That's paragraph 64 where you state that	1	Q. And that's because it concluded that those
2	Q. Yes. That's paragraph 64 where you state that "Of the 120 studies"	2	Q. And that's because it concluded that those studies were not relevant to genotoxic risk in humans;
2 3	Q. Yes. That's paragraph 64 where you state that"Of the 120 studies"A. Right.	2 3	Q. And that's because it concluded that those studies were not relevant to genotoxic risk in humans; correct?
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	Page 54		Page 56
1	report; correct?	1	Appendix F. As described in Section 7.0 of this
2	A. Correct.	2	document, glyphosate formulations are hypothesized to be
3	Q. So if you'll turn to page you're probably	3	more toxic than glyphosate alone. The agency is
4	already there page 98 of the EPA report.	4	collaborating with NTP to systematically investigate the
5	A. Back to where we were, okay.	5	mechanisms of toxicity of glyphosate and glyphosate
6	Q. Yes. And now we're looking in the first full	6	formulations. However, the focus of this section is the
7	paragraph on that page.	7	genotoxic potential of glyphosate technical."
8	A. All right.	8	So in this passage, the EPA is fairly clearly
9	Q. It says, "In the current analysis, a fit for	9	saying that they did not place much, if any, weight on
10	purpose systematic review process was conducted to	10	the genotoxicity studies on the formulated products, so
11	identify relevant genotoxicity data from regulatory	11	I felt it would be inappropriate for me to include them
12	studies and published literature, from open sources	12	as among the studies that EPA considered in its
13	(published and unpublished) for both glyphosate	13	evaluation since they say right here that they didn't
	technical and glyphosate-based formulations. Studies	14	
15	conducted with glyphosate formulations that were	15	MR. FAYNE: I'll move to strike that answer as
	identified and considered relevant for genotoxicity	16	non-responsive.
17	evaluation are summarized in table form in Appendix F."	17	MR. ESFANDIARY: The answer will stand.
18	Do you see that?	18	Q. (BY MR. FAYNE:) The question was, had you
19	A. Yes.		included
20	Q. And then if we turn to Appendix F, which is on	20	THE REPORTER: Could you repeat?
21	page 214.	21	MR. ESFANDIARY: I said the answer will stand.
22	A. Yes.	22	Q. (BY MR. FAYNE:) The question was, had you
23	Q. So in Appendix F, there are a number of tables;	23	
	correct?	24	studies considered by EPA as compared to IARC would have
25	A. Correct.		been higher; correct?
	Page 55		Page 57
1	Q. And these list studies on the	1	A. If I had done that, yeah, it would have gone
2	Q. And these list studies on the formulated genotoxicity studies on the formulated	2	A. If I had done that, yeah, it would have gone up.
2	Q. And these list studies on the formulated genotoxicity studies on the formulated product that EPA cited in the tables; correct?	2 3	A. If I had done that, yeah, it would have goneup.MR. KRISTAL: Are you at a somewhat clear
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 Q. And these list studies on the formulated genotoxicity studies on the formulated product that EPA cited in the tables; correct? A. That they included in the table, correct. In the tables. Q. In the tables, correct. And I haven't counted the studies, but there are more than 25 or so studies cited in these tables; correct? A. Yes. Q. In reaching your conclusion that EPA considered only 40 of the approximately 55 studies considered by IARC, you did not include studies that were cited in these tables in Appendix F; correct? A. That's correct. Q. Had you included those studies, the number considered by EPA would have been larger than 40; correct? A. It would have been inappropriate to do so because if you continue reading in the same paragraph, that that appears on the top of page 98, you finished 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 A. If I had done that, yeah, it would have gone up. MR. KRISTAL: Are you at a somewhat clear breaking point? We've been going a little over an hour. I'd like to take a break. If you have a question or two, that's okay. MR. FAYNE: Sure. We can take a break. MR. KRISTAL: Okay. VIDEOGRAPHER: Off the record at 9:08 a.m. (A brief recess was had.) VIDEOGRAPHER: Back on the record at 9:27 a.m. Q. (BY MR. FAYNE:) Dr. Benbrook, we've been discussing your analysis of the EPA review of genotoxicity studies as compared to IARC; correct? A. Yes. Q. And we had just been talking about the tables in Appendix F of the EPA report; correct? A. Yes. Q. I'd like to turn your attention now to Appendix D of the EPA report, and that's on page 196. A. Yes.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 Q. And these list studies on the formulated genotoxicity studies on the formulated product that EPA cited in the tables; correct? A. That they included in the table, correct. In the tables. Q. In the tables, correct. And I haven't counted the studies, but there are more than 25 or so studies cited in these tables; correct? A. Yes. Q. In reaching your conclusion that EPA considered only 40 of the approximately 55 studies considered by IARC, you did not include studies that were cited in these tables in Appendix F; correct? A. That's correct. Q. Had you included those studies, the number considered by EPA would have been larger than 40; correct? A. It would have been inappropriate to do so because if you continue reading in the same paragraph, that that appears on the top of page 98, you finished with "Studies" this is the last sentence that you 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 A. If I had done that, yeah, it would have gone up. MR. KRISTAL: Are you at a somewhat clear breaking point? We've been going a little over an hour. I'd like to take a break. If you have a question or two, that's okay. MR. FAYNE: Sure. We can take a break. MR. KRISTAL: Okay. VIDEOGRAPHER: Off the record at 9:08 a.m. (A brief recess was had.) VIDEOGRAPHER: Back on the record at 9:27 a.m. Q. (BY MR. FAYNE:) Dr. Benbrook, we've been discussing your analysis of the EPA review of genotoxicity studies as compared to IARC; correct? A. Yes. Q. And we had just been talking about the tables in Appendix F of the EPA report; correct? A. Yes. Q. I'd like to turn your attention now to Appendix D of the EPA report is a list of
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Q. And these list studies on the formulated genotoxicity studies on the formulated product that EPA cited in the tables; correct? A. That they included in the table, correct. In the tables. Q. In the tables, correct. And I haven't counted the studies, but there are more than 25 or so studies cited in these tables; correct? A. Yes. Q. In reaching your conclusion that EPA considered only 40 of the approximately 55 studies considered by IARC, you did not include studies that were cited in these tables in Appendix F; correct? A. That's correct. Q. Had you included those studies, the number considered by EPA would have been larger than 40; correct? A. It would have been inappropriate to do so because if you continue reading in the same paragraph, that that appears on the top of page 98, you finished with "Studies" this is the last sentence that you read "Studies conducted with glyphosate formulations 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. If I had done that, yeah, it would have gone up. MR. KRISTAL: Are you at a somewhat clear breaking point? We've been going a little over an hour. I'd like to take a break. If you have a question or two, that's okay. MR. FAYNE: Sure. We can take a break. MR. KRISTAL: Okay. VIDEOGRAPHER: Off the record at 9:08 a.m. (A brief recess was had.) VIDEOGRAPHER: Back on the record at 9:27 a.m. Q. (BY MR. FAYNE:) Dr. Benbrook, we've been discussing your analysis of the EPA review of genotoxicity studies as compared to IARC; correct? A. Yes. Q. And we had just been talking about the tables in Appendix F of the EPA report; correct? A. Yes. Q. I'd like to turn your attention now to Appendix D of the EPA report is a list of studies assigned a low quality ranking and not evaluated
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 Q. And these list studies on the formulated genotoxicity studies on the formulated product that EPA cited in the tables; correct? A. That they included in the table, correct. In the tables. Q. In the tables, correct. And I haven't counted the studies, but there are more than 25 or so studies cited in these tables; correct? A. Yes. Q. In reaching your conclusion that EPA considered only 40 of the approximately 55 studies considered by IARC, you did not include studies that were cited in these tables in Appendix F; correct? A. That's correct. Q. Had you included those studies, the number considered by EPA would have been larger than 40; correct? A. It would have been inappropriate to do so because if you continue reading in the same paragraph, that that appears on the top of page 98, you finished with "Studies" this is the last sentence that you read "Studies conducted with glyphosate formulations that were identified and considered relevant for 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. If I had done that, yeah, it would have gone up. MR. KRISTAL: Are you at a somewhat clear breaking point? We've been going a little over an hour. I'd like to take a break. If you have a question or two, that's okay. MR. FAYNE: Sure. We can take a break. MR. KRISTAL: Okay. VIDEOGRAPHER: Off the record at 9:08 a.m. (A brief recess was had.) VIDEOGRAPHER: Back on the record at 9:27 a.m. Q. (BY MR. FAYNE:) Dr. Benbrook, we've been discussing your analysis of the EPA review of genotoxicity studies as compared to IARC; correct? A. Yes. Q. And we had just been talking about the tables in Appendix F of the EPA report; correct? A. Yes. Q. I'd like to turn your attention now to Appendix D of the EPA report, and that's on page 196. A. Yes. Q. Appendix D of the EPA report is a list of studies assigned a low quality ranking and not evaluated in detail; correct?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 Q. And these list studies on the formulated genotoxicity studies on the formulated product that EPA cited in the tables; correct? A. That they included in the table, correct. In the tables. Q. In the tables, correct. And I haven't counted the studies, but there are more than 25 or so studies cited in these tables; correct? A. Yes. Q. In reaching your conclusion that EPA considered only 40 of the approximately 55 studies considered by IARC, you did not include studies that were cited in these tables in Appendix F; correct? A. That's correct. Q. Had you included those studies, the number considered by EPA would have been larger than 40; correct? A. It would have been inappropriate to do so because if you continue reading in the same paragraph, that that appears on the top of page 98, you finished with "Studies" this is the last sentence that you read "Studies conducted with glyphosate formulations 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. If I had done that, yeah, it would have gone up. MR. KRISTAL: Are you at a somewhat clear breaking point? We've been going a little over an hour. I'd like to take a break. If you have a question or two, that's okay. MR. FAYNE: Sure. We can take a break. MR. KRISTAL: Okay. VIDEOGRAPHER: Off the record at 9:08 a.m. (A brief recess was had.) VIDEOGRAPHER: Back on the record at 9:27 a.m. Q. (BY MR. FAYNE:) Dr. Benbrook, we've been discussing your analysis of the EPA review of genotoxicity studies as compared to IARC; correct? A. Yes. Q. And we had just been talking about the tables in Appendix F of the EPA report; correct? A. Yes. Q. I'd like to turn your attention now to Appendix D of the EPA report is a list of studies assigned a low quality ranking and not evaluated

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_	Page 58		Page 60
1	Q. In reaching your conclusion that EPA considered	1	A. Yes, you did.
2	only 40 of the approximately 55 studies cited reviewed	2	Q. And I'm correct that "GBHs" refers to
3	by IARC, you did not include the studies cited by EPA in	3	glyphosate-based herbicides; correct?
4		4	A. Yes, you are.
5	A. No, I did not, because the EPA said that they	5	Q. So turning to the IARC monograph, page 47.
6	1	6	A. Did you say page 47?
7	1 5	7	Q. Page 47, yes, Table 4.1.A. Okay. I have it.
8	Q. Would you agree that these are studies that EPA	8	•
9	considered but then assessed as low quality?A. I think the EPA considered that they were low	9	Q. Are these the five studies in exposed humans
10		11	that you're referring to in paragraph 65 of your report? A. They are.
11		12	-
12 13	Q. But you agree that EPA would have had to review		Q. And if you look at the list, it shows an assay result from Paz-y-Mino, et al.?
14	and evaluate the studies to determine that they were of	14	A. Correct.
	•		
15	low quality; correct? A. They would have had to do that, correct.	15 16	Q. That's P-A-Z dash Y dash M-I-N-O, et al., 2007.
17	A. They would have had to do that, correct.Q. And you testified previously that you're sure	17	Assay result from Paz-y-Mino, et al., from 2011? A. Correct.
18	that there's other documents in the record, you know, a	18	Q. An assay result from Bolognesi et al., 2009?
19	4,000-page memorandum that might discuss in more detail	19	A. Correct.
20	EPA's underlying reasoning for its review; correct?	20	Q. And two more assay results from Bolognesi, et
21	A. Of the different genotoxicity studies?		al., 2009; correct?
22	Q. Correct.	22	A. Correct.
23	A. Yes.	23	Q. If you could look back to Appendix D of the EPA
24	Q. And so in that document or that type of		report now.
	document is where EPA might have set forth its analysis	25	MR. KRISTAL: What page was that?
1	Page 59	1	Page 61
	as to why these studies were low quality; correct?	1	MR. FAYNE: That was page 196.
2	as to why these studies were low quality; correct?A. One would presume that they would do that, but	2	MR. FAYNE: That was page 196. Q. (BY MR. FAYNE:) And again, Appendix D is the
2 3	as to why these studies were low quality; correct? A. One would presume that they would do that, but I would need to look at them to see, you know, what	2 3	MR. FAYNE: That was page 196. Q. (BY MR. FAYNE:) And again, Appendix D is the list of studies that EPA assigned a low quality ranking
2 3 4	as to why these studies were low quality; correct? A. One would presume that they would do that, but I would need to look at them to see, you know, what precise reason they cited in each one of them.	2 3 4	MR. FAYNE: That was page 196. Q. (BY MR. FAYNE:) And again, Appendix D is the list of studies that EPA assigned a low quality ranking to.
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	Page 62		Page 64
1	weight on three studies of human populations exposed to	1	EPA placed little weight on these studies because it
2	glyphosate-based herbicides that displayed, according to	2	assessed them to be of low quality; correct?
3	the IARC Working Group, strong evidence of direct damage	3	A. No. I think well, I think they in
4	to human DNA."	4	addition to them placing them in Appendix D, they say
5	Do you see that?	5	quite clearly in the report that their assessment of the
6	A. Correct.	6	genotoxicity of glyphosate is based on studies on
7	Q. Are you referring to those same three or five	7	glyphosate technical and they did not review or place
8	studies, however you want to characterize it? The	8	weight on the studies on formulated product, whether
9	Bolognesi 2009, Paz-y-Mino 2007, and Paz-y-Mino 2011?	9	they were high quality or low quality.
10	A. I'm actually referring to the narrative section	10	Q. But one reason that they excluded these studies
11	in the summary report the summary report section of	11	from their analysis is because they assessed them to be
12	the IARC report where they present their overall	12	low quality; correct?
13	analysis of the of the of the genotox or their	13	MR. KRISTAL: Objection.
14	decision to classify glyphosate or glyphosate-based	14	A. As I as I said, you know, they they state
15	herbicides as probable human carcinogens.	15	clearly in their report that their focus was on studies
16	And in its Section 6 of the IARC report that	16	on glyphosate technical, so this certainly suggests to
17	begins on page 78 of IARC Monograph 112, in the	17	me that their assessment of the studies on on
18	Section 6.4 on the rationale, the first bulleted item,	18	formulated glyphosate-based herbicides was not as
19	"There is strong evidence that exposure to glyphosate or	19	thorough and certainly there was not as much weight
20	glyphosate-based formulations is genotoxic based on	20	placed on them.
21	Ĩ	21	Q. You mentioned previously an NTP review that
22	animals." And then they go on to say, "One study in	22	was that EPA was going to partner with NTP to
23	several communities in individuals exposed to	23	evaluate studies on glyphosate-based formulation;
24	glyphosate-based formulations also found chromosomal		correct?
25	damage in blood cells. In this study, markers of	25	A. It's not exactly partner. It's the I think
	Page 63		Page 65
1	chromosomal damage (micronucleus formation) were	1	the EPA has requested that the NTP conduct a set of
1 2	chromosomal damage (micronucleus formation) were significantly greater after exposure than before	1 2	the EPA has requested that the NTP conduct a set of genotox assays on technical glyphosate and
			-
2	significantly greater after exposure than before	2 3	genotox assays on technical glyphosate and
2 3 4	significantly greater after exposure than before exposure to the same individuals."	2 3 4	genotox assays on technical glyphosate and glyphosate-based herbicides to further inform the
2 3 4 5 6	significantly greater after exposure than before exposure to the same individuals." This is where the IARC Working Group highlights the studies on DNA damage in exposed human populations. It's not it's not I'm not able to definitively say	2 3 4	genotox assays on technical glyphosate and glyphosate-based herbicides to further inform the differential toxicity between glyphosate technical and
2 3 4 5 6 7	significantly greater after exposure than before exposure to the same individuals." This is where the IARC Working Group highlights the studies on DNA damage in exposed human populations. It's not it's not I'm not able to definitively say which of those those positive studies they're	2 3 4 5	genotox assays on technical glyphosate andglyphosate-based herbicides to further inform thedifferential toxicity between glyphosate technical andformulated glyphosate-based herbicides.Q. If you turn to page 141 of the EPA report.A. Okay.
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1	Page 66	1	Page 68
1	Q. (BY MR. FAYNE:) Yes, the next page under the		formulations; is that a fair characterization?
2	graphic. The last sentence of that paragraph states	2	A. Several of the studies reviewed and given
3	that "However, when members of an NTP work group looked		considerable weight by the IARC Working Group were
4	at the available data included in the IARC review, the		studies done on formulated glyphosate-based herbicides
5	group did not agree with IARC, but the data provided		that were not reviewed or given heavy weight by EPA,
6			yeah. Correct.
7	induction of oxidative stress given protocol	7	Q. And in your opinion, that explains that's
8	deficiencies that could produce questionable results."	8	part of the explanation as to why EPA and IARC reached
9	Did you see that?	9	different determinations on the genotoxicity of
10	A. Yes. You read that correctly.	10	glyphosate and glyphosate-based formulations; correct?
11	Q. So you agreed that the NTP work group, at least	11	A. Yes, sir.
12	based on this preliminary review, did not agree with	12	Q. And just to restate that slightly, that in
13	IARC on the studies of genotoxicity studies of	13	your view, that's a primary reason why IARC found strong
	formulated product; correct?	14	, , , , , , , , , , , , , , , , , , ,
15	A. This is this is EPA's characterization of,	15	glyphosate is not genotoxic; correct?
16	I'm assuming, interactions that they had with the	16	A. Correct.
17	scientists at NTP, so take EPA at their word, what they	17	MR. FAYNE: Mark this as Exhibit 8. Yep.
18	reported.	18	(Exhibit 8 marked for identification.)
19	Q. So you agree that EPA's view, based on its	19	Q. (BY MR. FAYNE:) I've marked as Exhibit 8 a Q
20	discussions with the NTP group, is that NTP did not	20	and A on glyphosate prepared by the International Agency
21	agree with IARC's analysis of the genotoxicity data on	21	For Research on Cancer in March 2016.
22	glyphosate-based formulations; is that fair?	22	A. Yep.
23	A. Well, there's there is that this	23	Q. Have you seen this document before?
	assessment and the discussions that the EPA had with NTP	24	A. No. I don't believe I have.
25	was no doubt specific to individual assays or individual	25	Q. Can I just look at the copy I gave you? I'm
	Page 67		Page 69
1	study results. It's hard to say exactly what the	1	sorry. I just want to make sure that I gave you the
	5 5 5	±	sorry. I just want to make sure that I gave you the
2	details of those conversations were, but the you		right one.
3	details of those conversations were, but the you	2 3	right one.
3 4	details of those conversations were, but the you know, this this states that NTP felt that there was	2 3	right one. So if you look at the first bold question on
3 4 5	details of those conversations were, but the you know, this this states that NTP felt that there was some methodological issues with some of the assays, and	2 3 4 5	right one. So if you look at the first bold question on page 1.
3 4 5	details of those conversations were, but the you know, this this states that NTP felt that there was some methodological issues with some of the assays, and they apparently felt that the IARC Working Group reached	2 3 4 5 6	right one. So if you look at the first bold question on page 1. MR. KRISTAL: Well, I would ask that
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	Page 70		Page 72
1	Q. (BY MR. FAYNE:) So the first question on the		evaluated the evidence on formulated glyphosate-based
2	first page states, "Could the carcinogenic effects of	2	herbicides and also concluded that that evidence was
3	glyphosate be related to the other chemicals in the	3	strong, and that's what they're saying here. It's a
4	formulations?" And IARC responds "No."	4	slight distinction, but
5	Did I read that correctly?	5	Q. You would agree that IARC reviewed the evidence
6	A. Yes.	6	on technical glyphosate and determined that the
7	Q. And then if you look at the second paragraph of	7	genotoxic risk that there was strong evidence of
8	that answer, IARC explains that "For the experimental	8	genotoxic risk; correct?
9	studies on 'pure glyphosate,' the monograph concluded	9	A. Yes.
10	that the evidence of causing cancer in experimental	10	Q. EPA reviewed the evidence on technical
11	animals was sufficient and the evidence for causing	11	glyphosate and reached the opposite conclusion; correct?
12	genotoxicity was strong."	12	A. The EPA's conclusion is stated clearly, and it
13	Did I read that correctly?	13	says that the EPA reported that based on their review
14	A. Yes, you did.	14	of data on the genotoxic effects of glyphosate technical
15	Q. And then turning to the next page, the question	15	and current typical levels of exposure, that
16	asks, "Could the co-formulants be the cause of the	16	there's there's not strong evidence of a mutagenic
17	genotoxic effects reported in the IARC Monograph?"	17	effect.
18	Did I read that correctly?	18	I think they used the word "via the oral
19	A. Yes, you did.	19	route." So their conclusion is limited to glyphosate
20	Q. And IARC responds, "With regard to	20	technical, and it's contingent on levels of exposure
21	genotoxicity, the IARC Working Group evaluated" studies	21	typical levels of exposure through the oral route or
	on "studies of 'pure glyphosate' as well as studies	22	5
23	of glyphosate-based formulations. The working group	23	Q. EPA has never found that glyphosate is
	reached the same hazard conclusion for glyphosate and		genotoxic; correct?
25	for its formulations: they concluded that the evidence	25	A. That's actually a complicated question. I
	Page 71		Page 73
1	for genotoxicity was 'strong' for glyphosate and	1	mean, EPA renders judgments about the genotoxicity of
2	'strong' for glyphosate formulations."	2	pesticides in a lot of different places at a lot of
3	Did I read that correctly?	3	different times. Sometimes they'll review an individual
4	A. Yes, you did.	4	study and say that there's evidence of genotoxicity in
5	Q. In other words, IARC did not find a material	5	this one study, but then based on other studies and
6	difference between the genotoxicity evidence on	6	their weight-of-evidence evaluation, they may say that
7	glyphosate and the genotoxicity evidence on	7	overall their judgment is that it's not.
8	glyphosate-based formulations; is that a fair	8	Certainly this September 2016 report that we've
9	characterization?	9	been talking about I think is an accurate reflection of
10	A. No.	10	EPA's views at the time, and I believe it's still their
11	Q. Why not?	11	
12	A. They they state clearly here that	12	that this is the most relevant contemporary summary of
13	they they characterized and believe that the evidence	13	EPA's weight of evidence judgment about the overall
			11
14	is strong in both the case of pure or technical	14	database.
14 15	is strong in both the case of pure or technical glyphosate and in the case of glyphosate-based	15	Q. You would agree that EPA's current judgment,
14 15 16	is strong in both the case of pure or technical glyphosate and in the case of glyphosate-based formulations. There's no implied sort of comparison	15 16	Q. You would agree that EPA's current judgment, which is consistent with its longstanding judgment, is
14 15 16 17	is strong in both the case of pure or technical glyphosate and in the case of glyphosate-based formulations. There's no implied sort of comparison between the two that they're both strong.	15 16 17	Q. You would agree that EPA's current judgment, which is consistent with its longstanding judgment, is that the weight of the evidence does not show glyphosate
14 15 16 17 18	is strong in both the case of pure or technical glyphosate and in the case of glyphosate-based formulations. There's no implied sort of comparison between the two that they're both strong.Q. Okay. So let me rephrase it.	15 16 17 18	Q. You would agree that EPA's current judgment, which is consistent with its longstanding judgment, is that the weight of the evidence does not show glyphosate technical to be genotoxic; correct?
14 15 16 17 18 19	is strong in both the case of pure or technical glyphosate and in the case of glyphosate-based formulations. There's no implied sort of comparison between the two that they're both strong.Q. Okay. So let me rephrase it.They categorized both glyphosate and	15 16 17 18 19	Q. You would agree that EPA's current judgment, which is consistent with its longstanding judgment, is that the weight of the evidence does not show glyphosate technical to be genotoxic; correct?A. Based on typical levels of dietary exposure,
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	Dama 74		Dama 76
	Page 74		Page 76
	roughly comparable.		studies on glyphosate-based formulations in assessing
2	Q. EPA has never made a weight-of-the-evidence	2	glyphosate technical and vice versa. So it's it
3	determination that glyphosate is genotoxic; correct?		would be artificial to build a fence between the two
4	A. Not that I'm aware of.	4	data sets and say that they're completely irrelevant to
5	Q. Turning back to the Q and A document from IARC.	5	
6	A. Okay.	6	So I you know, I think they they
7	Q. As we were discussing previously, IARC reviewed	7	were they took into account the overall data on both
8	the evidence genotoxicity evidence on glyphosate and	8	glyphosate technical and formulated glyphosate-based
9	found that there was strong evidence of genotoxicity,	9	herbicides.
10	reviewed the genotoxicity evidence on glyphosate-based	10	Q. What are you relying upon for your contention
11	formulation and found that there was strong evidence of	11	that they took into account the overall data on both
12	genotoxicity; correct?	12	glyphosate technical and formulated herbicides in
13	A. Correct.	13	determining that glyphosate technical was genotoxic?
14	Q. Does that change your opinion that a key reason	14	A. Just reading the report.
15	that IARC found strong evidence of genotoxicity is that	15	Q. So that just comes from this Monograph 112?
16	it considers studies on glyphosate-based formulations	16	A. Volume 112.
	whereas EPA did not?	17	Q. That's where your
18	A. No, it doesn't change my opinion.	18	A. Correct.
19	Q. Why not?	19	Q. Let's turn back to your report. I'm sorry,
20	A. Because the the impact in IARC's overall	20	let's turn to the OPP report, page 100.
	evaluation of the genotox database of the studies in	21	A. Okay. I have it.
	directly exposed human populations and the various in	21	-
22			Q. And what I'm referring to are Tables 5.1
	vitro studies with formulated glyphosate-based	23	
	herbicides were, you know, among the studies that in	24	A. 120
25	their narrative discussion and in their summary	25	Q. Looks like page 125, I believe.
	D 75		Dama 77
	Page 75		Page 77
1	-	1	-
	rationale statement, that the IARC Working Group pointed		A. Yeah, I was going to say 126, but my memory was
	rationale statement, that the IARC Working Group pointed to as very, very important.		A. Yeah, I was going to say 126, but my memory was not exactly correct.
2 3	rationale statement, that the IARC Working Group pointed to as very, very important. So, you know, I I think it's impossible to	2 3	A. Yeah, I was going to say 126, but my memory was not exactly correct.Q. If one were to count up all the studies listed
2 3 4	rationale statement, that the IARC Working Group pointed to as very, very important. So, you know, I I think it's impossible to read the IARC Working Group discussion of the genotox	2 3 4	A. Yeah, I was going to say 126, but my memory was not exactly correct.Q. If one were to count up all the studies listed in these tables, it would be significantly more than 40;
2 3 4 5	rationale statement, that the IARC Working Group pointed to as very, very important. So, you know, I I think it's impossible to read the IARC Working Group discussion of the genotox database without being fully aware that the working	2 3 4 5	A. Yeah, I was going to say 126, but my memory was not exactly correct.Q. If one were to count up all the studies listed in these tables, it would be significantly more than 40; correct?
2 3 4 5 6	rationale statement, that the IARC Working Group pointed to as very, very important. So, you know, I I think it's impossible to read the IARC Working Group discussion of the genotox database without being fully aware that the working group placed considerable weight in its overall judgment	2 3 4 5 6	A. Yeah, I was going to say 126, but my memory was not exactly correct.Q. If one were to count up all the studies listed in these tables, it would be significantly more than 40; correct?A. If one were to count up the assays.
2 3 4 5 6 7	rationale statement, that the IARC Working Group pointed to as very, very important. So, you know, I I think it's impossible to read the IARC Working Group discussion of the genotox database without being fully aware that the working group placed considerable weight in its overall judgment on the studies involving the formulated glyphosate-based	2 3 4 5 6 7	A. Yeah, I was going to say 126, but my memory was not exactly correct.Q. If one were to count up all the studies listed in these tables, it would be significantly more than 40; correct?A. If one were to count up the assays.Q. The assays, yes.
2 3 4 5 6 7 8	rationale statement, that the IARC Working Group pointed to as very, very important. So, you know, I I think it's impossible to read the IARC Working Group discussion of the genotox database without being fully aware that the working group placed considerable weight in its overall judgment on the studies involving the formulated glyphosate-based herbicides.	2 3 4 5 6 7 8	 A. Yeah, I was going to say 126, but my memory was not exactly correct. Q. If one were to count up all the studies listed in these tables, it would be significantly more than 40; correct? A. If one were to count up the assays. Q. The assays, yes. A. Yes. Correct.
2 3 4 5 6 7 8 9	rationale statement, that the IARC Working Group pointed to as very, very important. So, you know, I I think it's impossible to read the IARC Working Group discussion of the genotox database without being fully aware that the working group placed considerable weight in its overall judgment on the studies involving the formulated glyphosate-based herbicides. And, you know, I think, you know, as I intimate	2 3 4 5 6 7 8 9	 A. Yeah, I was going to say 126, but my memory was not exactly correct. Q. If one were to count up all the studies listed in these tables, it would be significantly more than 40; correct? A. If one were to count up the assays. Q. The assays, yes. A. Yes. Correct. Q. And the reason I'm referring to 40 is that you
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	Do co 79		Daga 90
1	Page 78		Page 80
1	A. Uh-huh. It does.	1	Q. So you didn't report that number in the results
2	Q. And by my count, if you look at the comparable		of your analysis; correct?
3	tables in the IARC report, they considered 21 assay	3	A. Not in not in the expert report, no.
4	8 J I	4	Q. Why not?
5	Does that sound about right?	5	A. I don't know. I mean, I was trying to be as
6	A. No. I don't think so.	6	
7	Q. Okay. Do you want to we can go to the	7	Q. So in your opinion, it wasn't important to your
8	report, if you'd like. So if you look at the IARC	8	analysis that EPA had considered more studies on
9	monograph.	9	glyphosate technical in mammalian systems than IARC did?
10	A. Let's see. I'm going to try to	10	A. It was certainly not important that EPA had
11	Q. And I should say 21 studies on glyphosate	11	considered approximately 23 or 24 reverse bacterial
12	technical in mammalian systems.	12	mutation studies on glyphosate technical. One of the
13	A. Oh, okay. Well, that's slightly different.	13	features of the surprising features of the genotox
14	Q. I apologize, yes. That was my	14	database that EPA reviewed was that bacterial reverse
15	A. That sounds about right.	15	mutation studies account for almost half of the overall
16	Q. Okay. So just to restate that, so IARC looked	16	number of studies across all categories of genotoxicity
17	at approximately 21 studies on glyphosate technical in	17	when EPA data requirements call for only one study, one
18	mammalian systems; correct?	18	bacterial reverse mutation study in technical using a
19	A. Correct.	19	pure pure technical active ingredient.
20	Q. So EPA reviewed roughly four times as many	20	So it was clear that, for whatever reason,
21	studies on glyphosate technical in mammalian systems;	21	Monsanto and the other registrants conducted
22	correct?	22	approximately two dozen reverse bacterial mutation
23	A. Correct.	23	studies and included those in the evaluation. And it's
24	Q. In your analysis, you didn't take into account	24	certainly my assessment and, I think, the assessment of
25	studies cited by EPA but not by IARC; correct?	25	the IARC Working Group and others that those additional
	D 7 0		
	Page 79		Page 81
1	Your analysis didn't look at studies cited by	1 1	negative bacterial reverse mutation studies didn't add a
			-
2	EPA but not IARC; correct?	2	lot of new information to the database.
2 3	EPA but not IARC; correct? A. Yes, I did.	2 3	lot of new information to the database. Q. I just, while we were sitting here, counted it
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2 3 4 5 6 7 8 9 10 11 12 13 14	EPA but not IARC; correct? A. Yes, I did. Q. Well, when you're counting up the studies and saying EPA considered 40 of the approximately 55, you're only looking at studies that IARC considered and then evaluating whether EPA considered them, as well; correct? A. Can we parse that out a little bit? Q. Sure. In your report you state that IARC strike that. In your report you state that EPA considered 40 of the approximately 55 studies in mammalian systems that IARC considered; correct?	2 3 4 5 6 7 8 9 10 11 12 13	 lot of new information to the database. Q. I just, while we were sitting here, counted it up and it looks like there are 27 bacterial reverse mutation assays cited in the EPA report. Does that sound about right? A. Sounds about right, yep. Q. So that means there's another 57 studies, genotoxicity studies on glyphosate technical, that were cited in the EPA report? A. I'd have to pull out all my detailed sheets to get the exact number, but and don't forget, you know, in in some of the questions and some of my analysis, I I do include the bacterial reverse mutation studies
2 3 4 5 6 7 8 9 10 11 12 13	EPA but not IARC; correct? A. Yes, I did. Q. Well, when you're counting up the studies and saying EPA considered 40 of the approximately 55, you're only looking at studies that IARC considered and then evaluating whether EPA considered them, as well; correct? A. Can we parse that out a little bit? Q. Sure. In your report you state that IARC strike that. In your report you state that EPA considered 40 of the approximately 55 studies in mammalian systems that IARC considered; correct? A. Yes.	2 3 4 5 6 7 8 9 10 11 12 13	 lot of new information to the database. Q. I just, while we were sitting here, counted it up and it looks like there are 27 bacterial reverse mutation assays cited in the EPA report. Does that sound about right? A. Sounds about right, yep. Q. So that means there's another 57 studies, genotoxicity studies on glyphosate technical, that were cited in the EPA report? A. I'd have to pull out all my detailed sheets to get the exact number, but and don't forget, you know, in in some of the questions and some of my analysis, I I do include the bacterial reverse mutation studies on the formulated product too. So it gets it's a lot
2 3 4 5 6 7 8 9 10 11 12 13 14	EPA but not IARC; correct? A. Yes, I did. Q. Well, when you're counting up the studies and saying EPA considered 40 of the approximately 55, you're only looking at studies that IARC considered and then evaluating whether EPA considered them, as well; correct? A. Can we parse that out a little bit? Q. Sure. In your report you state that IARC strike that. In your report you state that EPA considered 40 of the approximately 55 studies in mammalian systems that IARC considered; correct? A. Yes. Q. Those 40 studies are only ones that IARC	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 lot of new information to the database. Q. I just, while we were sitting here, counted it up and it looks like there are 27 bacterial reverse mutation assays cited in the EPA report. Does that sound about right? A. Sounds about right, yep. Q. So that means there's another 57 studies, genotoxicity studies on glyphosate technical, that were cited in the EPA report? A. I'd have to pull out all my detailed sheets to get the exact number, but and don't forget, you know, in in some of the questions and some of my analysis, I I do include the bacterial reverse mutation studies on the formulated product too. So it gets it's a lot of numbers and a lot of categories and it can be a
2 3 4 5 6 7 8 9 10 11 12 13 14 15	EPA but not IARC; correct? A. Yes, I did. Q. Well, when you're counting up the studies and saying EPA considered 40 of the approximately 55, you're only looking at studies that IARC considered and then evaluating whether EPA considered them, as well; correct? A. Can we parse that out a little bit? Q. Sure. In your report you state that IARC strike that. In your report you state that EPA considered 40 of the approximately 55 studies in mammalian systems that IARC considered; correct? A. Yes. Q. Those 40 studies are only ones that IARC considered; correct?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 lot of new information to the database. Q. I just, while we were sitting here, counted it up and it looks like there are 27 bacterial reverse mutation assays cited in the EPA report. Does that sound about right? A. Sounds about right, yep. Q. So that means there's another 57 studies, genotoxicity studies on glyphosate technical, that were cited in the EPA report? A. I'd have to pull out all my detailed sheets to get the exact number, but and don't forget, you know, in in some of the questions and some of my analysis, I I do include the bacterial reverse mutation studies on the formulated product too. So it gets it's a lot of numbers and a lot of categories and it can be a little confusing.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	EPA but not IARC; correct? A. Yes, I did. Q. Well, when you're counting up the studies and saying EPA considered 40 of the approximately 55, you're only looking at studies that IARC considered and then evaluating whether EPA considered them, as well; correct? A. Can we parse that out a little bit? Q. Sure. In your report you state that IARC strike that. In your report you state that EPA considered 40 of the approximately 55 studies in mammalian systems that IARC considered; correct? A. Yes. Q. Those 40 studies are only ones that IARC considered; correct? A. Those are 40 studies that IARC considered and	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 lot of new information to the database. Q. I just, while we were sitting here, counted it up and it looks like there are 27 bacterial reverse mutation assays cited in the EPA report. Does that sound about right? A. Sounds about right, yep. Q. So that means there's another 57 studies, genotoxicity studies on glyphosate technical, that were cited in the EPA report? A. I'd have to pull out all my detailed sheets to get the exact number, but and don't forget, you know, in in some of the questions and some of my analysis, I I do include the bacterial reverse mutation studies on the formulated product too. So it gets it's a lot of numbers and a lot of categories and it can be a little confusing. Q. Understood. But there are would you agree
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	EPA but not IARC; correct? A. Yes, I did. Q. Well, when you're counting up the studies and saying EPA considered 40 of the approximately 55, you're only looking at studies that IARC considered and then evaluating whether EPA considered them, as well; correct? A. Can we parse that out a little bit? Q. Sure. In your report you state that IARC strike that. In your report you state that EPA considered 40 of the approximately 55 studies in mammalian systems that IARC considered; correct? A. Yes. Q. Those 40 studies are only ones that IARC considered; correct?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 lot of new information to the database. Q. I just, while we were sitting here, counted it up and it looks like there are 27 bacterial reverse mutation assays cited in the EPA report. Does that sound about right? A. Sounds about right, yep. Q. So that means there's another 57 studies, genotoxicity studies on glyphosate technical, that were cited in the EPA report? A. I'd have to pull out all my detailed sheets to get the exact number, but and don't forget, you know, in in some of the questions and some of my analysis, I I do include the bacterial reverse mutation studies on the formulated product too. So it gets it's a lot of numbers and a lot of categories and it can be a little confusing. Q. Understood. But there are would you agree
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	EPA but not IARC; correct? A. Yes, I did. Q. Well, when you're counting up the studies and saying EPA considered 40 of the approximately 55, you're only looking at studies that IARC considered and then evaluating whether EPA considered them, as well; correct? A. Can we parse that out a little bit? Q. Sure. In your report you state that IARC strike that. In your report you state that EPA considered 40 of the approximately 55 studies in mammalian systems that IARC considered; correct? A. Yes. Q. Those 40 studies are only ones that IARC considered; correct? A. Those are 40 studies that IARC considered and	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 lot of new information to the database. Q. I just, while we were sitting here, counted it up and it looks like there are 27 bacterial reverse mutation assays cited in the EPA report. Does that sound about right? A. Sounds about right, yep. Q. So that means there's another 57 studies, genotoxicity studies on glyphosate technical, that were cited in the EPA report? A. I'd have to pull out all my detailed sheets to get the exact number, but and don't forget, you know, in in some of the questions and some of my analysis, I I do include the bacterial reverse mutation studies on the formulated product too. So it gets it's a lot of numbers and a lot of categories and it can be a little confusing. Q. Understood. But there are would you agree
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	EPA but not IARC; correct? A. Yes, I did. Q. Well, when you're counting up the studies and saying EPA considered 40 of the approximately 55, you're only looking at studies that IARC considered and then evaluating whether EPA considered them, as well; correct? A. Can we parse that out a little bit? Q. Sure. In your report you state that IARC strike that. In your report you state that EPA considered 40 of the approximately 55 studies in mammalian systems that IARC considered; correct? A. Yes. Q. Those 40 studies are only ones that IARC considered; correct? A. Those are 40 studies that IARC considered and predominantly peer-reviewed published studies.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 lot of new information to the database. Q. I just, while we were sitting here, counted it up and it looks like there are 27 bacterial reverse mutation assays cited in the EPA report. Does that sound about right? A. Sounds about right, yep. Q. So that means there's another 57 studies, genotoxicity studies on glyphosate technical, that were cited in the EPA report? A. I'd have to pull out all my detailed sheets to get the exact number, but and don't forget, you know, in in some of the questions and some of my analysis, I I do include the bacterial reverse mutation studies on the formulated product too. So it gets it's a lot of numbers and a lot of categories and it can be a little confusing. Q. Understood. But there are would you agree that there are a large number of studies strike that. Would you agree that there are more than 40
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 EPA but not IARC; correct? A. Yes, I did. Q. Well, when you're counting up the studies and saying EPA considered 40 of the approximately 55, you're only looking at studies that IARC considered and then evaluating whether EPA considered them, as well; correct? A. Can we parse that out a little bit? Q. Sure. In your report you state that IARC strike that. In your report you state that EPA considered 40 of the approximately 55 studies in mammalian systems that IARC considered; correct? A. Yes. Q. Those 40 studies are only ones that IARC considered; correct? A. Those are 40 studies that IARC considered and predominantly peer-reviewed published studies. Q. So in that calculation, you're not taking into 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 lot of new information to the database. Q. I just, while we were sitting here, counted it up and it looks like there are 27 bacterial reverse mutation assays cited in the EPA report. Does that sound about right? A. Sounds about right, yep. Q. So that means there's another 57 studies, genotoxicity studies on glyphosate technical, that were cited in the EPA report? A. I'd have to pull out all my detailed sheets to get the exact number, but and don't forget, you know, in in some of the questions and some of my analysis, I I do include the bacterial reverse mutation studies on the formulated product too. So it gets it's a lot of numbers and a lot of categories and it can be a little confusing. Q. Understood. But there are would you agree that there are a large number of studies strike that. Would you agree that there are more than 40 studies that EPA considered on glyphosate technical that
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	EPA but not IARC; correct? A. Yes, I did. Q. Well, when you're counting up the studies and saying EPA considered 40 of the approximately 55, you're only looking at studies that IARC considered and then evaluating whether EPA considered them, as well; correct? A. Can we parse that out a little bit? Q. Sure. In your report you state that IARC strike that. In your report you state that EPA considered 40 of the approximately 55 studies in mammalian systems that IARC considered; correct? A. Yes. Q. Those 40 studies are only ones that IARC considered; correct? A. Those are 40 studies that IARC considered and predominantly peer-reviewed published studies. Q. So in that calculation, you're not taking into account studies that EPA considered but IARC did not;	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 lot of new information to the database. Q. I just, while we were sitting here, counted it up and it looks like there are 27 bacterial reverse mutation assays cited in the EPA report. Does that sound about right? A. Sounds about right, yep. Q. So that means there's another 57 studies, genotoxicity studies on glyphosate technical, that were cited in the EPA report? A. I'd have to pull out all my detailed sheets to get the exact number, but and don't forget, you know, in in some of the questions and some of my analysis, I I do include the bacterial reverse mutation studies on the formulated product too. So it gets it's a lot of numbers and a lot of categories and it can be a little confusing. Q. Understood. But there are would you agree that there are a large number of studies strike that. Would you agree that there are more than 40
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 EPA but not IARC; correct? A. Yes, I did. Q. Well, when you're counting up the studies and saying EPA considered 40 of the approximately 55, you're only looking at studies that IARC considered and then evaluating whether EPA considered them, as well; correct? A. Can we parse that out a little bit? Q. Sure. In your report you state that IARC strike that. In your report you state that EPA considered 40 of the approximately 55 studies in mammalian systems that IARC considered; correct? A. Yes. Q. Those 40 studies are only ones that IARC considered; correct? A. Those are 40 studies that IARC considered and predominantly peer-reviewed published studies. Q. So in that calculation, you're not taking into account studies that EPA considered but IARC did not; correct? 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 lot of new information to the database. Q. I just, while we were sitting here, counted it up and it looks like there are 27 bacterial reverse mutation assays cited in the EPA report. Does that sound about right? A. Sounds about right, yep. Q. So that means there's another 57 studies, genotoxicity studies on glyphosate technical, that were cited in the EPA report? A. I'd have to pull out all my detailed sheets to get the exact number, but and don't forget, you know, in in some of the questions and some of my analysis, I I do include the bacterial reverse mutation studies on the formulated product too. So it gets it's a lot of numbers and a lot of categories and it can be a little confusing. Q. Understood. But there are would you agree that there are a large number of studies strike that. Would you agree that there are more than 40 studies that EPA considered on glyphosate technical that IARC did not consider?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 EPA but not IARC; correct? A. Yes, I did. Q. Well, when you're counting up the studies and saying EPA considered 40 of the approximately 55, you're only looking at studies that IARC considered and then evaluating whether EPA considered them, as well; correct? A. Can we parse that out a little bit? Q. Sure. In your report you state that IARC strike that. In your report you state that EPA considered 40 of the approximately 55 studies in mammalian systems that IARC considered; correct? A. Yes. Q. Those 40 studies are only ones that IARC considered; correct? A. Those are 40 studies that IARC considered and predominantly peer-reviewed published studies. Q. So in that calculation, you're not taking into account studies that EPA considered but IARC did not; correct? A. I I didn't report that number, but I could 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 lot of new information to the database. Q. I just, while we were sitting here, counted it up and it looks like there are 27 bacterial reverse mutation assays cited in the EPA report. Does that sound about right? A. Sounds about right, yep. Q. So that means there's another 57 studies, genotoxicity studies on glyphosate technical, that were cited in the EPA report? A. I'd have to pull out all my detailed sheets to get the exact number, but and don't forget, you know, in in some of the questions and some of my analysis, I I do include the bacterial reverse mutation studies on the formulated product too. So it gets it's a lot of numbers and a lot of categories and it can be a little confusing. Q. Understood. But there are would you agree that there are a large number of studies strike that. Would you agree that there are more than 40 studies that EPA considered on glyphosate technical that IARC did not consider? A. Yes, I would agree with that. Q. Would you agree that there are more than 50

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	Contracticitat char		.5 Dendrook, Ph.D.
	Page 82		Page 84
1	IARC did not consider?	1	was still a registrant-submitted study, particularly in
2	A. I'd have to check. That's getting right up at	2	the absence of a in the bibliographic entry, a
3	the precise number.	3	reference to a journal where it was published.
4	Q. You state in Appendix C of your report and I	4	Between the bibliography in the IARC report,
5	don't think you need to turn there, but feel free	5	the bibliography in the EPA report and in searching on
6	that you recorded the results in an Excel spreadsheet.	6	the internet, I I was able to accurately identify, I
7	A. Yes.	7	believe, the registrant-submitted studies compared to
8	Q. Do you still have those files?	8	the peer-reviewed studies.
9	A. Yes.	9	Q. You're drawing a distinction between
10	Q. Is it a single file or multiple files?	10	registrant-submitted studies and peer-reviewed studies?
11	A. It's a single workbook, and there is a	11	A. Yes, sir.
12	worksheet for each of the tables, and the worksheets are	12	Q. It's possible, right, that a registrant, such
13	linked together analytically so that the counts are	13	as Monsanto or some other company could conduct a study
14	automatically done, the summary counts. And I think I	14	and submit it to a peer-reviewed journal; correct?
15	explain in the Appendix C methodology section the	15	A. Yes.
16	information that I moved into the spreadsheets.	16	Q. In those cases, did you count that as a
17	Q. Have you produced those spreadsheets in this	17	registrant study or a peer-reviewed study?
18	litigation, as far as you're aware?	18	A. As I explained before, the spreadsheets were
19	A. No.	19	built off of the core tables in the EPA report and in
20	Q. But you'd be able to do that if asked?	20	the IARC report, so if a study was in in the
21	A. Yes.	21	bacterial reverse mutation table in the EPA report, I'd
22	Q. In your report you also performed what I read	22	move that study in and then I determined whether it was
23	as a separate analysis of regulatory genotoxicity	23	a registrant study, submitted study, or whether it
24	studies as compared to genotoxicity studies published in	24	appeared in a peer-reviewed journal.
25	peer-reviewed journals; is that accurate?	25	Now, it's possible that there may have
	Page 83		Page 85
1	Page 83 A. Yes.	1	Page 85 been you know, it's possible that there may have been
1 2	_		-
	A. Yes.	2	been you know, it's possible that there may have been
2	A. Yes.Q. You state in your report that you identifiedregistrant-commissioned regulatory studies from EPA's	2 3	been you know, it's possible that there may have been a study where there was a registrant-submitted version
2 3 4	A. Yes.Q. You state in your report that you identifiedregistrant-commissioned regulatory studies from EPA's	2 3 4	been you know, it's possible that there may have been a study where there was a registrant-submitted version of it and then the scientist also published it, but
2 3 4	A. Yes.Q. You state in your report that you identifiedregistrant-commissioned regulatory studies from EPA's2016 report and Monsanto-commissioned genotoxicity	2 3 4 5	been you know, it's possible that there may have been a study where there was a registrant-submitted version of it and then the scientist also published it, but I I don't think that's the case because if that had
2 3 4 5	 A. Yes. Q. You state in your report that you identified registrant-commissioned regulatory studies from EPA's 2016 report and Monsanto-commissioned genotoxicity review articles; correct? 	2 3 4 5 6	been you know, it's possible that there may have been a study where there was a registrant-submitted version of it and then the scientist also published it, but I I don't think that's the case because if that had been the case, such a study would have been referenced
2 3 4 5 6	 A. Yes. Q. You state in your report that you identified registrant-commissioned regulatory studies from EPA's 2016 report and Monsanto-commissioned genotoxicity review articles; correct? A. Yes. 	2 3 4 5 6	been you know, it's possible that there may have been a study where there was a registrant-submitted version of it and then the scientist also published it, but I I don't think that's the case because if that had been the case, such a study would have been referenced in either the Williams, et al., review or the Kier and Kirkland review or the Brusick review, and I'm sure that
2 3 4 5 6 7	 A. Yes. Q. You state in your report that you identified registrant-commissioned regulatory studies from EPA's 2016 report and Monsanto-commissioned genotoxicity review articles; correct? A. Yes. Q. Which Monsanto-commissioned genotoxicity review articles are you referring to? A. Williams 2000, Kier 2013, Kier and Kirkland 	2 3 4 5 6 7	been you know, it's possible that there may have been a study where there was a registrant-submitted version of it and then the scientist also published it, but I I don't think that's the case because if that had been the case, such a study would have been referenced in either the Williams, et al., review or the Kier and Kirkland review or the Brusick review, and I'm sure that they would have referenced the peer-reviewed version of it, and I didn't find any I don't recall any examples
2 3 4 5 6 7 8	 A. Yes. Q. You state in your report that you identified registrant-commissioned regulatory studies from EPA's 2016 report and Monsanto-commissioned genotoxicity review articles; correct? A. Yes. Q. Which Monsanto-commissioned genotoxicity review articles are you referring to? A. Williams 2000, Kier 2013, Kier and Kirkland 2015 and Brusick, et al., 2017. I think Heydens too, 	2 3 4 5 6 7 8 9 10	been you know, it's possible that there may have been a study where there was a registrant-submitted version of it and then the scientist also published it, but I I don't think that's the case because if that had been the case, such a study would have been referenced in either the Williams, et al., review or the Kier and Kirkland review or the Brusick review, and I'm sure that they would have referenced the peer-reviewed version of it, and I didn't find any I don't recall any examples of that off the top of my head. Although, you know,
2 3 4 5 6 7 8 9 10 11	 A. Yes. Q. You state in your report that you identified registrant-commissioned regulatory studies from EPA's 2016 report and Monsanto-commissioned genotoxicity review articles; correct? A. Yes. Q. Which Monsanto-commissioned genotoxicity review articles are you referring to? A. Williams 2000, Kier 2013, Kier and Kirkland 2015 and Brusick, et al., 2017. I think Heydens too, Heydens, et al., 2018. 	2 3 4 5 6 7 8 9 10 11	been you know, it's possible that there may have been a study where there was a registrant-submitted version of it and then the scientist also published it, but I I don't think that's the case because if that had been the case, such a study would have been referenced in either the Williams, et al., review or the Kier and Kirkland review or the Brusick review, and I'm sure that they would have referenced the peer-reviewed version of it, and I didn't find any I don't recall any examples of that off the top of my head. Although, you know, it's possible that I might have missed one.
2 3 4 5 6 7 8 9 10 11 12	 A. Yes. Q. You state in your report that you identified registrant-commissioned regulatory studies from EPA's 2016 report and Monsanto-commissioned genotoxicity review articles; correct? A. Yes. Q. Which Monsanto-commissioned genotoxicity review articles are you referring to? A. Williams 2000, Kier 2013, Kier and Kirkland 2015 and Brusick, et al., 2017. I think Heydens too, Heydens, et al., 2018. Q. How did you determine that a study was a 	2 3 4 5 6 7 8 9 10 11 12	been you know, it's possible that there may have been a study where there was a registrant-submitted version of it and then the scientist also published it, but I I don't think that's the case because if that had been the case, such a study would have been referenced in either the Williams, et al., review or the Kier and Kirkland review or the Brusick review, and I'm sure that they would have referenced the peer-reviewed version of it, and I didn't find any I don't recall any examples of that off the top of my head. Although, you know, it's possible that I might have missed one. Q. And I'm just trying to understand. If Monsanto
2 3 4 5 6 7 8 9 10 11 12 13	 A. Yes. Q. You state in your report that you identified registrant-commissioned regulatory studies from EPA's 2016 report and Monsanto-commissioned genotoxicity review articles; correct? A. Yes. Q. Which Monsanto-commissioned genotoxicity review articles are you referring to? A. Williams 2000, Kier 2013, Kier and Kirkland 2015 and Brusick, et al., 2017. I think Heydens too, Heydens, et al., 2018. Q. How did you determine that a study was a registrant-commissioned regulatory study? 	2 3 4 5 6 7 8 9 10 11 12 13	 been you know, it's possible that there may have been a study where there was a registrant-submitted version of it and then the scientist also published it, but I I don't think that's the case because if that had been the case, such a study would have been referenced in either the Williams, et al., review or the Kier and Kirkland review or the Brusick review, and I'm sure that they would have referenced the peer-reviewed version of it, and I didn't find any I don't recall any examples of that off the top of my head. Although, you know, it's possible that I might have missed one. Q. And I'm just trying to understand. If Monsanto conducts a study not for regulatory purposes, they
2 3 4 5 6 7 8 9 10 11 12 13 14	 A. Yes. Q. You state in your report that you identified registrant-commissioned regulatory studies from EPA's 2016 report and Monsanto-commissioned genotoxicity review articles; correct? A. Yes. Q. Which Monsanto-commissioned genotoxicity review articles are you referring to? A. Williams 2000, Kier 2013, Kier and Kirkland 2015 and Brusick, et al., 2017. I think Heydens too, Heydens, et al., 2018. Q. How did you determine that a study was a registrant-commissioned regulatory study? A. By a lot of work, a lot of work. So all of the 	2 3 4 5 6 7 8 9 10 11 12 13 14	been you know, it's possible that there may have been a study where there was a registrant-submitted version of it and then the scientist also published it, but I I don't think that's the case because if that had been the case, such a study would have been referenced in either the Williams, et al., review or the Kier and Kirkland review or the Brusick review, and I'm sure that they would have referenced the peer-reviewed version of it, and I didn't find any I don't recall any examples of that off the top of my head. Although, you know, it's possible that I might have missed one. Q. And I'm just trying to understand. If Monsanto conducts a study not for regulatory purposes, they conduct a study and submit it to a peer-reviewed
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		те	·
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	regulatory genotoxicity study side that does not have an	1	studies published in the public literature; correct?
2	MRID number?	2	A. Correct.
3	A. I can't cite any right off the top of my head.	3	Q. And these are studies that were cited either in
		4	EPA's 2016 report or the IARC monograph?
5	MRID numbers on all registrant-submitted studies.	5	A. Correct.
6	Q. So would it be fair to say, at least sitting	6	Q. Did you find any other strike that.
7	here today, you're not aware of any of the studies that	7	Other than the studies cited in EPA's 2016
8	you considered registrant-submitted that did not have an	8	report and in the IARC monograph, did you consider any
9	MRID number?	9	other studies in the public literature as part of this
10	A. Actually, I think there are a few in the	10	analysis?
11	bibliography, and these were the ones that I struggled	11	A. If you if by "this analysis" you mean my
12	with where, for some reason, in the bibliographic	12	comparison of the genotox studies cited in the
13	citation in the EPA report there wasn't an MRID number.	13	September 2016 EPA report relative to Volume 122 IARC
14	But in those cases, I searched further, and	14	monograph, the answer would be yes.
15	often I was able to find a citation in usually Williams,	15	Q. No. That wasn't my question. So my
16	et al., because Williams, et al., is a paper that came	16	question and maybe it will be helpful to turn to your
17	out in 2000 and summarized the early the early	17	
18	studies that Monsanto conducted and submitted to the	18	A. Let me explain.
19	agency.	19	Q. Please.
20	I think most of these issues about the	20	A. When you say "this analysis," what do you mean?
21	completeness of the bibliographic citation and the EPA	21	
22	report were on 1980s circa 1980s studies that were	22	analysis of the comparing the two?
23	done and, you know, I think sometimes EPA was reminded	23	Q. What I'm referring to is your analysis of what
	of them or became aware of them through the Williams, et		you referred to as registrant-commissioned studies
25			versus public-literature studies on genotoxicity.
	,		
	Page 87		Page 89
1	Q. Presumably you have a spreadsheet or other	1	A. Okay.
	record of which studies you put in the	2	Q. So I am trying to understand how you identified
	registrant-submitted category and which studies you put	3	which studies were, quote/unquote, public-literature
4	in the public literature category; is that correct?	4	studies.
5	A. Of course. That's a data field in the in	5	MR. KRISTAL: So do you want to ask the
6	the workbook.	6	question again
7	Q. So from that report, one would be able to	7	MR. FAYNE: Yes.
8	identify how you categorize any particular study;	8	MR. KRISTAL: now that
9	correct?	9	Q. (BY MR. FAYNE:) So with that understanding,
10	A. Yes.	10	you cite that you state that studies cited either in
11	Q. And again, that's something that you still have	11	$\ensuremath{EPA}\xspace's 2016$ report or the IARC monograph were considered
12	available on your computer?	12	public lit strike that.
13	A. Yes.	13	You identified public-literature studies from
14	MR. KRISTAL: Hasn't been deleted in the last	14	EPA's 2016 report and the IARC monograph; correct?
15	two minutes?	15	A. And the five literature reviews done by
16	MR. FAYNE: We're talking about a different	16	Monsanto.
17	analysis. I'm not sure we've established that it's the	17	Q. If you could turn to page 68 of your report.
18	same spreadsheet.	18	A. Paragraph 68 or page?
1-0		19	Q. Paragraph 68. Thank you.
19	MR. KRISTAL: Fair enough.	1-1	
	-	20	A. Okay.
19	Q. (BY MR. FAYNE:) Is it the same spreadsheet?		A. Okay.Q. The second sentence of that paragraph states,
19 20	Q. (BY MR. FAYNE:) Is it the same spreadsheet?A. It's not the same spreadsheet. It's in the	20	-
19 20 21	Q. (BY MR. FAYNE:) Is it the same spreadsheet?A. It's not the same spreadsheet. It's in the same workbook.	20 21	Q. The second sentence of that paragraph states, "Likewise, all studies published in peer-reviewed
19 20 21 22	Q. (BY MR. FAYNE:) Is it the same spreadsheet?A. It's not the same spreadsheet. It's in the	20 21 22	Q. The second sentence of that paragraph states, "Likewise, all studies published in peer-reviewed journals that were cited by EPA and/or the IARC Working
19 20 21 22 23	Q. (BY MR. FAYNE:) Is it the same spreadsheet?A. It's not the same spreadsheet. It's in the same workbook.Q. Different tab of the same workbook?	20 21 22 23	Q. The second sentence of that paragraph states, "Likewise, all studies published in peer-reviewed

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1	A. Correct.	1	other had?
2	Q. Did I read that correctly?	2	MR. FAYNE: Sure. I'll clarify the question.
3	A. Yep.	3	Q. (BY MR. FAYNE:) Are there any instances in
4	Q. If I understand your testimony today, you also	4	which EPA and IARC characterized a genotoxicity study
5	looked at the Monsanto review articles to identify	5	differently than each other?
6	public literature studies; is that correct?	6	A. I think there are one or two examples where
7	A. May I read the first sentence	7	IARC considered a result indeterminate. They just
8	Q. Yes.	8	couldn't couldn't weren't they weren't
9	A in paragraph 68?	9	convinced that a study reported either positive or
10	Q. Yes.	10	negative results, and I I can't remember if in maybe
11	A. "All regulatory studies cited in the	11	one or two cases EPA had reported the study as positive
12	September 26 EPA report or in a Monsanto-commissioned	12	or negative. There might be one or two cases.
13	genotoxicity review article were analyzed relative to	13	Q. In those cases, how did you resolve the
14	'positive' or 'negative' results. Likewise, all studies		conflict?
15	published in peer-reviewed journals that were cited by	15	A. I stuck with what each if EPA said that the
16	EPA and/or the IARC Working Group were analyzed along	16	
17	with whether they reported 'positive' or 'negative'	17	as "positive," and if IARC said it was indeterminate,
18	genotoxicity results."	18	I I I I I I I I I I I I I I I I I I I
19	Q. Right. So, again, this is not a trick at all.	19	Q. I understand in terms of your EPA versus IARC
20	I'm just trying to understand. As I read this, you	20	comparison, but right now we're talking about your
21	identified regulatory studies from the EPA report and	21	6
22	from Monsanto-commissioned genotoxicity review articles;	22	
	correct?		that sentence. But I'm trying to understand let
24	A. Yes.		me strike that. Let me give you a more precise
25	Q. And you identified public literature studies	25	example.
	Page 91		Page 93
	from the EPA report and the IARC Working Group report;	1	Okay. So if you turn to paragraph 71 of your
2	from the EPA report and the IARC Working Group report; correct?	2	Okay. So if you turn to paragraph 71 of your report. You state that, "Of the 52 regulatory studies
2 3	from the EPA report and the IARC Working Group report; correct? A. And I think there were a couple that were also	2	Okay. So if you turn to paragraph 71 of your report. You state that, "Of the 52 regulatory studies assessing the genotoxicity of glyphosate technical, only
2 3 4	from the EPA report and the IARC Working Group report; correct? A. And I think there were a couple that were also identified in the Monsanto-commissioned reviews.	2 3 4	Okay. So if you turn to paragraph 71 of your report. You state that, "Of the 52 regulatory studies assessing the genotoxicity of glyphosate technical, only one reported a positive result, while 35 of the
2 3 4 5	from the EPA report and the IARC Working Group report; correct? A. And I think there were a couple that were also identified in the Monsanto-commissioned reviews. Q. Okay. And that's all I'm trying to	2 3 4 5	Okay. So if you turn to paragraph 71 of your report. You state that, "Of the 52 regulatory studies assessing the genotoxicity of glyphosate technical, only one reported a positive result, while 35 of the public-literature studies reported positive evidence of
2 3 4 5 6	from the EPA report and the IARC Working Group report; correct? A. And I think there were a couple that were also identified in the Monsanto-commissioned reviews. Q. Okay. And that's all I'm trying to understand	2 3 4 5 6	Okay. So if you turn to paragraph 71 of your report. You state that, "Of the 52 regulatory studies assessing the genotoxicity of glyphosate technical, only one reported a positive result, while 35 of the public-literature studies reported positive evidence of genotoxicity."
2 3 4 5 6 7	from the EPA report and the IARC Working Group report; correct? A. And I think there were a couple that were also identified in the Monsanto-commissioned reviews. Q. Okay. And that's all I'm trying to understand A. Okay. Yeah.	2 3 4 5 6 7	Okay. So if you turn to paragraph 71 of your report. You state that, "Of the 52 regulatory studies assessing the genotoxicity of glyphosate technical, only one reported a positive result, while 35 of the public-literature studies reported positive evidence of genotoxicity." Other than the parenthetical I skipped, did I
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	Page 94		Page 96
1	A. I don't think that that situation ever arose.	1	account whether EPA or IARC raised concerns about the
	I mean, it's just not a it's not something that I	2	reliability of a study?
3	dealt with, I had to deal with. You know, I understand	3	A. I recorded the information as it was presented
4	that, you know, there I vaguely remember there was	4	in the tables. You know, there are there are
5	one instance, and I don't I don't think it affected	5	comments in in the results section of the EPA tables.
6	the analysis in any way because of the way I structured	6	For example, where it says "results," you will encounter
7	the workbooks.	7	some assays where EPA will say positive or negative, and
8	Q. Okay. So you're not sure, sitting here today,	8	then there will be some additional information,
9	whether there was an instance where EPA classified a	9	"positive at the highest dose tested," or something of
10	result as negative and IARC classified the same assay as	10	that nature.
11	positive?	11	I I absolutely was thorough in capturing
12	A. There were no instances of that. I believe	12	whether EPA or IARC, for a given assay, characterized it
13	there might have been one instance for one assay where	13	as negative or positive, but I did not strive to move
14	IARC's IARC classified it as indeterminate and EPA	14	into the spreadsheet the sort of the caveats or the
15	classified it as I don't remember whether it was	15	additional information.
16	positive or negative. And I actually I don't I'd	16	Q. So if, let's say, EPA and IARC both
17	have to go back and look.	17	characterize a certain study as positive, you would, in
18	I might have just eliminated that one from the	18	your results, count that as a positive study; correct?
19	overall count because for this for this particular	19	A. For both, correct.
20	part of the analysis because, you know, you're right,	20	Q. And you would not go back to look to see
21	there's a conflict there.	21	whether EPA or IARC said we have concerns about the
22	Q. Is it possible that you've included in these	22	reliability of this study; correct?
23	results a study that EPA characterizes positive that	23	A. It if EPA or IARC put a study in one of its
24	IARC found was indeterminate?		tables, I think the it's a fair read of the reports
25	A. No.	25	that they regarded those studies to be of sufficient
	Page 95		Page 97
1	MR. KRISTAL: And by "these results," you meant	1	quality to report a result.
2	the count that we're talking about here?	2	Q. Understood. But if it was in the tables, you
3	MR. FAYNE: The counts.	3	didn't go back to the narrative to see whether they had
4	MR. KRISTAL: No.	4	any commentary about the strength of the results or
5	MR. FAYNE: Yes. Yes.		
		5	whether they were reliable; correct?
6	MR. KRISTAL: The count in paragraph 71?	5 6	whether they were reliable; correct? A. I understand your question now.
6 7			-
	MR. KRISTAL: The count in paragraph 71? MR. FAYNE: Sure. And again, I don't	6 7	A. I understand your question now.
7	MR. KRISTAL: The count in paragraph 71? MR. FAYNE: Sure. And again, I don't	6 7	 A. I understand your question now. Well, you know, of course I carefully read the
7	MR. KRISTAL: The count in paragraph 71? MR. FAYNE: Sure. And again, I don't want that was an example, but I'm really referring to	6 7 8 9	 A. I understand your question now. Well, you know, of course I carefully read the narrative several times. I didn't strive to incorporate
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	Page 98		Page 100
1	A. Yes, I did.		studies versus public-literature studies, you also did a
2	Q. And did you exclude any studies on the basis		review of when the various studies were conducted;
3	that you didn't believe them to be well-designed?		correct?
4	MR. KRISTAL: In the count?	4	A. I did.
5	MR. FAYNE: In the count, yes.	5	Q. And you state in paragraph 75 that "In terms of
6	THE WITNESS: No. I stuck with what EPA		in vivo chromosomal aberration studies on glyphosate
	reported in the tables and what IARC reported in the	7	technical, the most recent registration study was
	tables, but I wanted to understand more thoroughly how	8	
	some of the studies were designed, what some of the	9	studies were done in 2012."
	issues were. I was interested in dose levels in some	10	A. Correct.
	cases. So I have a printout of essentially every single	11	Q. If you turn to the EPA or IARC report,
12	published genotox study in these tables. It's quite a	12	whichever your preference I'm just trying to identify
13	thick file.	13	what those two studies conducted in 2012 are because I
14	And as you note in my reliance list in the	14	wasn't able to find them in the tables.
15	genotox bibliography, all of those studies are included	15	A. Okay. So we're in vivo chromosomal aberration.
16	in it.	16	Let's see. Probably let's start here.
17	Q. (BY MR. FAYNE:) But you did not exclude any	17	MR. ESFANDIARY: Are you referring to IARC or
18	studies from your count based on your review of the	18	the EPA's report?
19	study design; correct?	19	MR. FAYNE: Either.
20	A. Correct.	20	MR. ESFANDIARY: All right.
21	MR. KRISTAL: We've been going about another	21	THE WITNESS: So you want the more recent ones?
22	hour.	22	MR. FAYNE: I'm just trying to understand what
23	MR. FAYNE: Give me three more minutes.	23	the two in vivo chromosomal aberration studies on
24	MR. KRISTAL: Take five.	24	glyphosate technical that were done in 2012
25	THE WITNESS: I'm good.	25	THE WITNESS: Okay.
	D 000		D 101
	Page 99		Page 101
1	MR. FAYNE: You're good?	1	MR. FAYNE: what you're referring to.
2	MR. FAYNE: You're good? THE WITNESS: I'm good.	2	MR. FAYNE: what you're referring to. THE WITNESS: All right. So the in vivo test
2 3	MR. FAYNE: You're good? THE WITNESS: I'm good. MR. KRISTAL: Well, if you want to keep going,	2 3	MR. FAYNE: what you're referring to. THE WITNESS: All right. So the in vivo test in the EPA report at Table 5.5 and you'll see it's
2 3 4	MR. FAYNE: You're good? THE WITNESS: I'm good. MR. KRISTAL: Well, if you want to keep going, then I'll hand the microphone to Pedram while I step out	2 3 4	MR. FAYNE: what you're referring to. THE WITNESS: All right. So the in vivo test in the EPA report at Table 5.5 and you'll see it's 1983, 1982, 1994, 1990 and 1992. So in the in the
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	Page 102		Page 104
	A. Okay.		herbicides are predominantly negative, and so, hence,
2	Q. Well, yes, in vivo chromosomal aberration.		they're not as sensitive an assay to detect DNA damage
3	A. Okay. Then we got to go to a different table.		of various sorts and other mechanism of genotoxicity.
	Sorry.	4	So I would characterize, in effect, all of the
5	And is it in humans or non-humans?	5	I S
6			this particular quirk of that bacteria don't have
8	about paragraph 75; right? In vivo chromosomal aberration. Okay. So that	8	mitochondria.
9	starts here. Sorry. It's taking me a little while to		Q. So you would characterize just to make sure I understood what you just said, any assay other than
10	remember how they organized all of this.		the bacterial reverse mutation assay is what you would
11	MR. KRISTAL: Well, it's more important to get		characterize as more sensitive; correct?
	it correct than quick.	12	A. Correct.
13	THE WITNESS: Okay. Let me use a few minutes	13	Q. So just going through the EPA tables, in vitro
	of my lunchtime to find them; okay?		mammalian gene mutation assays, those would be
15	MR. FAYNE: Sure. We can come back to it.		considered more sensitive?
16	Q. (BY MR. FAYNE:) So let's turn to paragraph 79	16	A. Correct.
17		17	MR. KRISTAL: Maybe if we just speak a little
18	A. Okay.		more slowly.
19	Q. You state, "Based on the above analysis, I	19	MR. FAYNE: Yes, I will do that.
20	conclude that the dramatic differences in the results of	20	Q. (BY MR. FAYNE:) In vitro tests for chromosome
21		21	aberrations in mammalian cells, that would be a more
	studies, in contrast to assay results appearing in		sensitive assay?
23	peer-reviewed journals, arise from the state-of-science	23	A. Yes, sir.
	when various studies were conducted, coupled with the	24	Q. In vitro tests for micronuclei induction in
	generally more sensitive assay systems used by the	25	mammalian cells
	Page 103		Page 105
	scientists publishing their results in peer-reviewed	1	A. Correct.
	journals."	2	Q that would be more sensitive?
3	Did I read that correctly?	3	A. Yes, more sensitive, certainly.
4	A. Correct.	4	Q. Is it a fair characterization of your report to
5	Q. So if I understand your opinion correctly,		interpret the term or the phrase "more
6	you're citing two reasons that the genotoxicity assays	6	sensitive" "more sensitive assay system" to mean any
7	1 8 1		
8	II 8 I	8	assay?
9	A. Correct.	9	A. Certainly among the assay systems that are covered in the September 2016 EPA report and the LARC
10	Q. And the first is the time when the studies were conducted?		covered in the September 2016 EPA report and the IARC report. There are other genotox assay systems that
12	A. Correct.		haven't been deployed in the assessment of glyphosate
13	Q. And the second is that the public literature	13	technical and GBH and genotoxicity, and I haven't
14			reviewed all those and I'm not prepared to opine whether
15	correct?	15	they're all more or less sensitive.
16	A. Correct.	16	And it obviously becomes very complicated when
17	Q. What are the more sensitive assay systems that	17	you start assessing some of the genotox systems in
18	you're referring to?		non-mammalian organisms, earthworms and fish and et
19	A. Any assay system other than a bacterial reverse		cetera.
20	mutation study, and this is because of the well-known	20	Q. Would you agree that EPA considered all of
21	fact that bacteria don't have mitochondria and	21	these more sensitive assay systems in its 2016 and now
22	glyphosate targets mitochondria.	22	2017 reports?
23	So it is no surprise to many scientists in the	23	A. They considered a few registrant-submitted
د ہے ا			
23	field that bacterial reverse mutation studies on both	24	studies in some of the categories and several in a rew
	field that bacterial reverse mutation studies on both glyphosate technical and formulated glyphosate-based		others, yes.

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	Page 106		Page 108
1	-	1	-
1 2	Q. Which categories strike that.		the form unless you're tracking paragraph 78. Direct
3	Which types of more sensitive assay systems did EPA not consider?	2	damage to DNA in humans. In other words, are you switching the
4	A. Well, certainly the direct DNA damage in	3	MR. FAYNE: No. I'll ask the question again,
5	exposed human populations, the EPA didn't consider any	5	
6	of those studies. That's the table we looked at before	6	
	with the four.	7	MR. KRISTAL: That's what I thought, but
8	In the and we can go through each one of	8	
	them and I'll characterize the differences, if you'd	9	so MR. FAYNE: Sure.
9	like.	10	THE WITNESS: So could you restate it?
11	Q. Well, I'm just trying to understand. We just	11	MR. FAYNE: I'll repeat the question.
12	walked through a number of more sensitive assay systems	12	THE WITNESS: Thank you.
13	the EPA did consider; correct?	13	-
14	A. EPA considered at least a few genotox assays in		Q. (BY MR. FAYNE:) Can you identify a
		14	peer-reviewed journal or other source, other than the
15 16	each of the categories, but in several of the categories they they considered a far fewer number than the IARC	15	IARC monograph, that supports your opinion that assays designed to detect direct damage to DNA in humans
17	Working Group.	17	following exposure are the most important in evaluating
18	Q. Would you agree that EPA considered some	18	genotoxicity in humans?
19	studies in each of the more sensitive assay categories	19	A. That's a very widely shared view. There are
20	on glyphosate technical?	20	multiple peer-reviewed articles, including some that I
21	A. Yes.	21	am co-author of, that make essentially that statement
22	Q. You state in paragraph 78 of your report that	22	and say that, to the extent that such studies are
23	"In my opinion, assays designed to detect direct damage	23	available in exposed human populations, they they
24	to DNA in humans following exposure to a formulated	24	clearly are the most relevant because they they avoid
25	glyphosate-based herbicide are the most important in		trying to interpolate from an in vitro study involving
	Page 107		Page 109
	evaluating glyphosate and glyphosate-based herbicide		cells to an actual human body that's alive and is
2	evaluating glyphosate and glyphosate-based herbicide genotoxicity."	2	cells to an actual human body that's alive and is metabolically and physiologically active. That's
2 3	evaluating glyphosate and glyphosate-based herbicide genotoxicity." Did I read that correctly?	2 3	cells to an actual human body that's alive and is metabolically and physiologically active. That's obviously the most relevant study system, if you will,
2 3 4	evaluating glyphosate and glyphosate-based herbicide genotoxicity." Did I read that correctly? A. Yes.	2 3 4	cells to an actual human body that's alive and is metabolically and physiologically active. That's obviously the most relevant study system, if you will, to try to understand the impact of any toxic chemical on
2 3 4 5	evaluating glyphosate and glyphosate-based herbicide genotoxicity." Did I read that correctly? A. Yes. Q. What is the basis of your opinion that assays	2 3 4 5	cells to an actual human body that's alive and is metabolically and physiologically active. That's obviously the most relevant study system, if you will, to try to understand the impact of any toxic chemical on human beings.
2 3 4 5 6	evaluating glyphosate and glyphosate-based herbicide genotoxicity." Did I read that correctly? A. Yes. Q. What is the basis of your opinion that assays designed to detect direct damage to DNA are the most	2 3 4 5 6	cells to an actual human body that's alive and is metabolically and physiologically active. That's obviously the most relevant study system, if you will, to try to understand the impact of any toxic chemical on human beings. Q. As we discussed previously, EPA listed the
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1	Page 110	1	Page 112
	identify a study that expresses that viewpoint; correct?		glyphosate technical; correct?
2	A. Yes, I am able. If you want to give me the	2	A. Correct. That's what Table 5.7 is.
3		3	Q. You've never designed a genotoxicity study;
4	Q. Well, we can look at your reliance list, if		correct?
5	you'd like. You've got a number of studies cited there.	5	A. You already asked me that.
_	Are there any studies cited on your reliance list that	6	Q. I apologize. I don't remember the answer.
7			Have you designed a genotoxicity study?
8	A. Again, I know I know where this is headed,	8	A. No, I have not.
9	and you're you're going to ask me to identify	9	Q. And you've never conducted a genotoxicity
10	essentially that sentence, and if it's not there in		study; correct?
11	exactly those words, then you're going to object.	11	A. Correct.
12	So I I stand by my statement that it's a	12	Q. So your understanding of genotoxicity is based
13	widely shared view and there are, you know, several		on reviewing published literature?
14	peer-reviewed studies that that articulate that in	14	MR. KRISTAL: Are you asking these seriatim or
15	the body of the the paper.		exclusively published literature, or what?
16	Q. And I'll ask the question again just because I	16	MR. FAYNE: I mean, yeah, I'm going to ask
17	don't think you've answered it yet.		you strike that.
18	That sitting here today, you cannot identify a	18	Q. (BY MR. FAYNE:) Your understanding of
19	study that you were not the author or	19	genotoxicity is based on reviewing published literature
20	A. You're kind of eating up my lunch. I'll pull	20	and speaking to the experts in the field of
21	out my computer.	1	genotoxicity; is that a fair characterization?
22	MR. KRISTAL: No, no. You don't have to do	22	A. That's certainly the primary basis for my
23	anything	1	knowledge of genotoxicity assays.
24	MR. FAYNE: I'm not asking you to do that.	24	Q. Would you agree that EPA has within its ranks a
25	MR. KRISTAL: on your dime. If he wants you	25	number of experts in the field of genotoxicity?
	D 111		
	Page 111		Page 113
1	Page 111 to look it up now as you sit here, we can do that.	1	A. Probably a few.
1 2		1	-
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2	to look it up now as you sit here, we can do that. THE WITNESS: Okay. I'll go to my room	2 3	A. Probably a few.Q. Within the office of its pesticide programs?
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Page 1141A. Yes, you did.2Q. So would you agree that EPA's view is that3studies of primary DNA damage are less important than4studies measuring endpoints such as gene mutations and5chromosomal aberrations?6A. It the damage might be heritation of the permanent or it might not. Both can feature	Page 116 or reversible and
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4 studies measuring endpoints such as gene mutations and 5 chromosomal aberrations?4A. It the damage might be herita 5 permanent or it might not. Both can fe	; correct?
5 chromosomal aberrations? 5 permanent or it might not. Both can f	1.1
	all under that
6 A. I think you might have misstated that. 6 category of direct DNA damage.	
7 Q. How so? 7 Q. So positive results in those dire	
8 A. Well, why don't you redo the question. 8 are not necessarily indicative of true g	enotoxicity;
9 Or you could reread the question if she took it 9 correct?	
10 MR. KRISTAL: Objection.	
11 Q. I'll re-read it. 11 A. Well, I don't understand your u	se of the term
12 A. Maybe I just misheard it. It could be my 12 "true genotoxicity."	
13 fault. 13 Q. Are not indicative of a genotox	ic effect;
14 Q. Would you agree that EPA's view is that studies 14 correct?	
15 evaluating primary DNA damage are less important in the 15 MR. KRISTAL: Objection.	
16 weight-of-the-evidence analysis than studies evaluating 16 A. I don't agree.	
17endpoints measuring gene mutations and chromosomal17My understanding is that you've	
18 aberrations? 18 genotoxicity assay that measures an ir	· ·
19A. In general, yes.19reversible, if you're asking me if I thir	
20 Q. And that's inconsistent with your view that 20 genotoxic effect, then I do not agree w	vith that, and nor
21 studies of direct DNA damage are the most important; is 21 do most scientists.	
22 that fair? 22 It is true that some impacts on D	
23A. Oh, I don't know. That would take some23 repairable. It's also true that rarely are	-
24 thought. 24 fully successful, and that damaged DN	
25 Q. What about that statement is not fair? 25 repaired is cumulative over time. So i	t's not
Page 115	Page 117
1 A. What EPA is getting at is that any genotoxicity 1 appropriate, in my judgment, to dismi	•
² assay that is capable of measuring or reports permanent ² assay results that are possibly repairable	
³ inheritable damage to DNA is more worrisome than a ³ as not relevant or important.	
· · · · · · · · · · · · · · · · · · ·	are the most
4 genotoxicity assay that produces a response but one 4 Q. In your view, such assay results	
5 that's reversible, and that I agree to I agree with5 important, is how I understood your re-	
5 that's reversible, and that I agree to I agree with5 important, is how I understood your re6 that view.6 correct?	
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	Page 118		Page 120
1	identified 26 studies published since 2015, of which 25	1	about or opined about in your report; correct?
	reported positive evidence of genotoxicity in one or	2	A. Yes.
	more assays."	3	Q. So if we turn to page 477 of your report.
4	A. Correct.	4	A. Maybe paragraph?
5	Q. Did I read that correctly?	5	MR. KRISTAL: Paragraph.
6	A. Yeah.	6	THE WITNESS: Maybe paragraph?
7	Q. How did you perform your search?	7	
8	A. Well, I went onto PubMed and typed in		MR. FAYNE: I'm really struggling with that
		8	today. Paragraph 477 of your report.
9	"glyphosate," "glyphosate-based herbicides,"	9	THE WITNESS: That's all right.
10	"genotoxicity," "mutagen," and probably a few other	10	MR. FAYNE: Not quite that long.
11	search words, terms. I've been I've done these	11	MR. KRISTAL: Next deposition there will be
	searches before so I kind of used the same methodology.		477 pages.
13	Q. Based on that search, you identified 26 studies	13	THE WITNESS: We'll catch up with it. So 477.
	published since 2015; correct?	14	MR. FAYNE: Yes. Yes. This is the beginning
15	A. Correct.	15	5 1
16	Q. Did you exclude any studies from that number	16	THE WITNESS: The good Dr. Parry.
17	based on your review of the study design or quality?	17	MR. KRISTAL: It's P-A-R-R-Y as opposed to
18	A. No.	18	E-R-R-Y.
19	Q. The majority of the studies you identified were	19	Q. (BY MR. FAYNE:) So in paragraph 477, you state
	in non-mammalian systems; is that a correct statement?	20	that, "In the 1990s, several positive genotoxicity
21	A. I think don't I talk about that in the	21	studies were published," and then you cite the Lioi, et
22	paragraph somewhere?		al., L-I-O-I, 1998, the Lioi, 1998 there are two of
23	Q. Yes. I believe you state that	23	those the Bolognesi, et al., 1997 and the Clements,
24	A. 12 mammalian studies were all positive. So if		et al., 1997; correct?
25	there were 25 and 12 of them were mammalian, then about	25	A. Correct.
	Page 119		Page 121
1	Page 119 half and half.	1	Page 121 Q. And as you discuss in your report, because of
1 2	-	1 2	Q. And as you discuss in your report, because of
	half and half.	2	Q. And as you discuss in your report, because of those studies Monsanto decided to retain Dr. Parry to
2	half and half. Q. Yeah. I believe there were 26 studies total.	2	Q. And as you discuss in your report, because of those studies Monsanto decided to retain Dr. Parry to
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	Page 122		Page 124
1	A. Correct.	1	studies Parry recommended."
2	Q. He was summarizing studies that already	2	Do you see that?
3	existed; correct?	3	A. Yes.
4	A. Well, reviewing and and sharing his	4	Q. Would you agree that it wouldn't be possible
5	assessment of their quality and relevance and findings.		for Monsanto to discuss internally the studies that
6	Q. Would you agree that his findings about what	6	Parry recommended before he had actually submitted his
7		7	
8	of the study authors?	8	A. Yes.
9	A. In general, yes.	9	Q. I'll break this down for you. So Dr. Parry's
10	Q. Are you aware of any instance in which	10	report in August 1999, that was not Dr. Parry's first
	Dr. Parry found a study to show a genotoxic effect when		report; correct?
12	the author of that study had found the study to be	12	A. Well, can we just pull them all out?
	negative?	13	Q. Yes. And again, it's not a trick. I'm just
14	A. I'm not aware of any such cases.		trying to understand your timeline.
15	Q. So turning to paragraph 480 of your report, you	15	A. If I if I made a mistake in my timeline,
16			I'll readily admit it.
17	A. Where are we now?	17	Q. Let's pull them out then, and I think we can
18	Q. Paragraph 480, just two paragraphs down.	18	clarify. Thank you.
19	A. 480. I thought you said 4E. 480, okay, I'm	19	A. Okay.
	there.	20	Q. So I'll mark this as Exhibit Number 9, and this
21	Q. So in paragraph 480 you state, "In a letter		is a report from Dr. Parry dated February 11th, 1999.
22		22	MR. KRISTAL: Thank you.
23	of three evaluation reports to	23	(Exhibit 9 marked for identification.)
	M-A-R-T-E-N-S "a Monsanto toxicologist"; correct?	24	Q. (BY MR. FAYNE:) So I'm showing you a document
25	A. Correct.		that's been marked Exhibit Number 9.
	Page 123		Page 125
1	Q. What are you relying upon for your statement	1	Have you seen this before?
2	Q. What are you relying upon for your statement that Dr. Parry transmitted three reports?	2	Have you seen this before? A. Yes.
2	Q. What are you relying upon for your statement that Dr. Parry transmitted three reports?A. My reading of the three reports.	2 3	Have you seen this before?A. Yes.Q. And is this one of the reports that Dr. Parry
2 3 4	Q. What are you relying upon for your statement that Dr. Parry transmitted three reports?A. My reading of the three reports.Q. So you identified three reports in the	2 3 4	Have you seen this before?A. Yes.Q. And is this one of the reports that Dr. Parry submitted to Monsanto?
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	Page 126		Page 128
1	studies."	1	is
2	Do you see that?	2	A. Oh, yeah. Sure.
3	A. Yes.	3	Q a page ending in 4264.
4	Q. And I read that correctly?	4	A. Yes.
5	A. Yes.	5	Q. So it looks like page 4264 lists some key
6	Q. And now I'm going to direct you back to	6	questions, and then there's a at the bottom it says,
7	paragraph 484. And you say	7	
8	A. Oh, Jesus. Hang on a second. 484. Got it.	8	page 4265, it says "Actions recommended"; correct?
9	Q. You state that, "In addition to his written	9	A. This is what I would regard as this third Parry
10	reports, Dr. Parry provided Monsanto with a detailed	10	report where he starts out laying out the key questions
11	list of recommended research activities to clear up	11	and then he makes his recommendations on what should be
12	lingering questions over the genotoxicity of	12	done to address the key questions.
13	glyphosate-based herbicides," and you cite MONGLY	13	Q. It's this report where he sets forth the 11
14	M-O-N-G-L-Y 01314264; correct?	14	specific recommendations you referred to?
15	A. Correct.	15	A. Correct.
16	Q. And is this the are these the	16	Q. Could you explain how you count 11
17	recommendations that you're referring to when you say	17	recommendations in this report?
18	"11 specific recommendations"?	18	A. Yes.
19	A. It's the last of the Parry reports, by my	19	Q. Please do.
20	accounting, and it's the one that spells out a number of	20	A. Okay. Well, provide comprehensive in vitro
21	recommendations, yes.	21	cytogenetic data on glyphosate formulations.
22	MR. FAYNE: So let's pull that out. So we'll	22	C-Y-T-O-G-E-N-E-T-I-C. That would be one.
23	cite or we'll mark as Exhibit 10 what I understand to	23	The second, B, is another one where he's saying
	be the second and third Dr. Parry reports, but you can		conduct these studies with and without antioxidant
25	confirm that for me once you have a chance.	25	activities to see if if the impact is reversible.
			D 100
	Page 127		Page 129
1	Page 127 (Exhibit 10 marked for identification.)	1	Page 129 And then he recommends that these be
1 2			-
	(Exhibit 10 marked for identification.)	2	And then he recommends that these be
2 3	(Exhibit 10 marked for identification.) MR. KRISTAL: Thank you.	2 3	And then he recommends that these be under undertaken in an in vitro micronucleus assay in
2 3 4	(Exhibit 10 marked for identification.) MR. KRISTAL: Thank you. THE WITNESS: Yes, these are these are	2 3 4	And then he recommends that these be under undertaken in an in vitro micronucleus assay in human lymphocytes. I'm not sure if I counted that as
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			•
	Page 130		Page 132
1	And then C is another one, "The induction of		explanation is that there are actually some
2	oxidative damage in vivo and determine the influence of		recommendations at the first part of it that aren't
3	antioxidant status. Determine the exposure	1	addressed in the second part. That's may be. But
4	concentrations of glyphosate which overwhelm the	1	I'll let give me a few minutes to recreate my
5	antioxidant status."	5	thinking. I'm quite sure I have I can explain to you
6	MR. KRISTAL: Chuck, could I ask you to just	6	how I got to 11. I didn't make it up.
7	slow down a little bit. Amy's fingers are starting to	7	MR. KRISTAL: Are you reviewing Exhibit 10
8	burn up.	8	is actually four documents. In other words, I don't
9	THE WITNESS: Okay. Sorry, Amy.	9	know if you meant to include it as four.
10	Q. (BY MR. FAYNE:) So just to stop you on are	10	MR. FAYNE: Excuse me, Counsel. I know it's
11	you counting C as one study?	11	not your deposition. I understand you're trying to be
12	A. Yes.	12	helpful and we can work this out later, but as I
13	Q. Okay.	13	understand it right now, he's not able to recreate it
14	A. I believe so.	14	THE WITNESS: Yeah. Yeah. Yeah.
15	Okay. Next one hang on. So D is clearly	15	MR. FAYNE: and we can come back to it.
16	another distinct assay, set of assays.	16	MR. KRISTAL: Yeah. But if you want
17	Trying to I can't recall as I sit here today	17	Dr. Benbrook to review to answer your questions, I don't
18	whether I counted his number E, which is not to repeat	18	think it's fair to him to have him do it over lunch. He
19	the chromatoid exchange studies, whether I counted that	19	should do it during the dep and ask questions.
20	as a recommendation for a new study or not. I think I	20	MR. FAYNE: Okay. Well, then the answer can be
21	didn't.	21	that you don't know sitting here today how you came up
22	Q. But sitting here today, you can't say one way	22	with 11 and we can leave it there.
23	or the other whether you did or didn't?	23	Q. (BY MR. FAYNE:) Is that that's your
24	A. Let me let me get to the end and if it adds	1	testimony, correct, right now you can't recreate how you
25	up to 11, then I'll be pretty sure that I didn't.	25	came up with 11 studies?
	Page 131		Page 133
1	Page 131 So Parry has also recommended the COMET assay	1	Page 133 A. Oh, yes, I can. You know, but, again, it will
	Page 131 So Parry has also recommended the COMET assay in the liver and kidney of mice.		Page 133 A. Oh, yes, I can. You know, but, again, it will take a little time.
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	Page 134		Page 136
1	MR. FAYNE: Yeah. Let's go off the record.		depositions.
2	VIDEOGRAPHER: Off the record at 11:31 a.m.	2	Q. Are you aware whether any of the studies that
3	(A brief recess was had.)	1	Dr. Parry recommended already existed either in
4	VIDEOGRAPHER: Back on the record at 11:32 a.m.		Monsanto's database or in the public literature?
5	Q. (BY MR. FAYNE:) You state in your report,	5	A. Well, surely several of Dr. Parry's
6	Dr. Benbrook, that Monsanto refused to conduct new	6	recommendations other scientists had done studies
7	studies in nine of the 11 areas; correct?	7	using those genotox assays, and Parry felt that it would
8	A. Correct.	8	be important to try to replicate them.
9	Q. How did you determine that Monsanto refused to	9	And so, yes, they're there were some
10	conduct those studies?	10	published studies reporting the results of the assays
11	A. Because they're not in there's no evidence	11	that Parry recommended that Monsanto replicate using
12	of them being conducted, and also in their e-mail	12	glyphosate technical and conduct for the first time
13	exchanges about responses to the Parry report, they say	13	using formulated glyphosate-based herbicides.
14	they're not going to conduct the studies that Parry	14	Q. If those studies were not cited in Dr. Parry's
15	recommended, with the exception of the micronucleus	15	reports, you're not able to say one way or the other
16	studies that they did to try to refute Bolognesi. They	16	whether he was aware that those studies already existed;
17	did, I think, four of those.	17	fair?
18	Q. So you agree that they did conduct some studies	18	A. Yes. I wouldn't have any way to read his mind.
19	in response to Dr. Parry's recommendations; correct?	19	Q. So it's possible that Dr. Parry recommended
20	A. Yes. Yes. They did several bacterial reverse	20	further studies on certain assays that he wasn't aware
21	mutation studies and glyphosate-based formulations, and	21	that they already existed; fair?
22	then they did I believe it was four micronucleus studies	22	A. I suppose he may not be aware of some
23	in the hope of refuting the Bolognesi findings.	23	registrant studies that Monsanto chose not to provide to
24	Q. How did you become aware that they had	24	him, yeah.
25	conducted the studies to replicate the Bolognesi	25	Q. Or public-literature studies; correct?
		1	
	Page 135		Page 137
	findings?	1	A. He may he may have missed and not been aware
2	findings? A. Well, they're in they're in the EPA	2	A. He may he may have missed and not been aware of. Yeah, that's possible.
2 3	findings? A. Well, they're in they're in the EPA document. They're in Kier and Kirkland. They're in	2 3	A. He may he may have missed and not been aware of. Yeah, that's possible.Q. So it's possible that some of the studies he
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	Confidencial		· · · · · · · · · · · · · · · · · · ·
1	Page 138	1	Page 140
1	So the purpose of the initial approach to		recommended to bring them around to their view of
	Dr. Parry was vetting him as a potential future member		genotoxicity of glyphosate and glyphosate-based
	of the Monsanto third-party network of experts		herbicides.
	who who Monsanto turns to from would turn to at	4	Q. I'd like to focus on the studies in the public
	various times to support their view of both	5	1
	registrant-submitted studies and peer-reviewed studies.	6	effect in the late 1990s; okay?
7	Q. You just testified that the studies that raised	7	A. Yeah.
	concern within Monsanto were those that were published	8	Q. Those are studies that Dr. Parry reviewed for
	in the peer-reviewed public literature; correct?		Monsanto; correct?
10	A. Those were among them, yes. This initial four	10	A. I believe there were three different sets of
	were I don't think it was the only studies that they		······································
	were concerned about at that time, but it was the first		first set, which was only four, and then there was
13	set. They were trying also to keep costs down. If you	13	another set, and then there was another set. And
	look at the e-mail exchanges, they were, you know,		this the report that we've been talking about here in
15	concerned about how much time Parry would have to invest	15	Exhibit 10, it's my understanding this was the final one
	in it, so they started with a fairly small assignment.	16	that integrated Dr. Parry's review of these three
17	Q. So you reviewed the internal Monsanto e-mails	17	tranches of sets of studies.
18	and it's your opinion, based on those e-mails, that they	18	Q. So going back to those let's just talk about
19	were trying to save costs?	19	the four studies you cite in paragraph 477 of your
20	MR. KRISTAL: Objection.	20	report; okay?
21	A. No. It's my opinion that they were cognizant	21	A. Okay.
	of the cost entailed in in hiring Dr. Parry to do a	22	Q. Those are all published in the peer-reviewed
23	thorough review of the genotox literature. I think they		literature; correct?
	were they clearly did not provide Dr. Parry all of	24	A. Correct.
25	the internal genotox studies that they had conducted and	25	Q. They would be available to EPA; correct?
	Page 139		Page 141
1	Page 139 submitted to registrants.	1	Page 141 A. Yes.
1 2	_	1 2	-
2	submitted to registrants.		A. Yes.Q. And, in fact, you're aware that those studies
2 3	submitted to registrants. I think they in Dr. Parry's reports, he does	2 3	A. Yes.Q. And, in fact, you're aware that those studies
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	submitted to registrants. I think they in Dr. Parry's reports, he does identify exactly what studies he was provided, and I doubt it's more than a quarter of the total Monsanto registrant-submitted studies. For example, they didn't provide him with 20 different bacterial reverse mutation studies that showed the same thing. Q. And there would have been no reason to do that, correct, because they all show the same thing? A. Correct. No no controversy on that matter. But as the discussion and interactions between Monsanto and Dr. Parry went on, it was it's clear in the record that Monsanto became concerned about the cost of Dr. Parry doing the studies that he felt were needed to clarify some of the questions, the key questions that he identified. In effect, Parry Parry was under the impression that as this dialogue went on, that he might be asked to do those studies. I'm not sure if he was, you know, ever told that directly, but I think he	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 A. Yes. Q. And, in fact, you're aware that those studies were submitted to EPA as part of a 2002 tolerance approval process; correct? A. I'm not aware of that. Q. You don't recall that from prior depositions? A. No, I don't. Q. Any reason to believe that those studies were not submitted to EPA? And I'm not strike that. Those studies were submitted to EPA by commenters, not by Monsanto; correct? A. I don't recall. Q. Any reason to believe that they were not submitted by commenters? A. No. Q. So let's turn to paragraph 498 of your report. So you state in paragraph A. Hang on. Q. Oh, sure. A. 498?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	submitted to registrants. I think they in Dr. Parry's reports, he does identify exactly what studies he was provided, and I doubt it's more than a quarter of the total Monsanto registrant-submitted studies. For example, they didn't provide him with 20 different bacterial reverse mutation studies that showed the same thing. Q. And there would have been no reason to do that, correct, because they all show the same thing? A. Correct. No no controversy on that matter. But as the discussion and interactions between Monsanto and Dr. Parry went on, it was it's clear in the record that Monsanto became concerned about the cost of Dr. Parry doing the studies that he felt were needed to clarify some of the questions, the key questions that he identified. In effect, Parry Parry was under the impression that as this dialogue went on, that he might be asked to do those studies. I'm not sure if he was, you know, ever told that directly, but I think he surmised that.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 A. Yes. Q. And, in fact, you're aware that those studies were submitted to EPA as part of a 2002 tolerance approval process; correct? A. I'm not aware of that. Q. You don't recall that from prior depositions? A. No, I don't. Q. Any reason to believe that those studies were not submitted to EPA? And I'm not strike that. Those studies were submitted to EPA by commenters, not by Monsanto; correct? A. I don't recall. Q. Any reason to believe that they were not submitted by commenters? A. No. Q. So let's turn to paragraph 498 of your report. So you state in paragraph A. Hang on. Q. Oh, sure. A. 498? Q. 498 on page 110?
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	submitted to registrants. I think they in Dr. Parry's reports, he does identify exactly what studies he was provided, and I doubt it's more than a quarter of the total Monsanto registrant-submitted studies. For example, they didn't provide him with 20 different bacterial reverse mutation studies that showed the same thing. Q. And there would have been no reason to do that, correct, because they all show the same thing? A. Correct. No no controversy on that matter. But as the discussion and interactions between Monsanto and Dr. Parry went on, it was it's clear in the record that Monsanto became concerned about the cost of Dr. Parry doing the studies that he felt were needed to clarify some of the questions, the key questions that he identified. In effect, Parry Parry was under the impression that as this dialogue went on, that he might be asked to do those studies. I'm not sure if he was, you know, ever told that directly, but I think he surmised that. But in any event, at the end of the day, Monsanto decided that they would not do the studies and that it would take too much time and cost too much money	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 A. Yes. Q. And, in fact, you're aware that those studies were submitted to EPA as part of a 2002 tolerance approval process; correct? A. I'm not aware of that. Q. You don't recall that from prior depositions? A. No, I don't. Q. Any reason to believe that those studies were not submitted to EPA? And I'm not strike that. Those studies were submitted to EPA by commenters, not by Monsanto; correct? A. I don't recall. Q. Any reason to believe that they were not submitted by commenters? A. No. Q. So let's turn to paragraph 498 of your report. So you state in paragraph A. Hang on. Q. Oh, sure. A. 498? Q. 498 on page 110? A. Got it. Q. You state, "In my opinion, Dr. Parry's reports triggered an obligation to (1) report the information to
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	submitted to registrants. I think they in Dr. Parry's reports, he does identify exactly what studies he was provided, and I doubt it's more than a quarter of the total Monsanto registrant-submitted studies. For example, they didn't provide him with 20 different bacterial reverse mutation studies that showed the same thing. Q. And there would have been no reason to do that, correct, because they all show the same thing? A. Correct. No no controversy on that matter. But as the discussion and interactions between Monsanto and Dr. Parry went on, it was it's clear in the record that Monsanto became concerned about the cost of Dr. Parry doing the studies that he felt were needed to clarify some of the questions, the key questions that he identified. In effect, Parry Parry was under the impression that as this dialogue went on, that he might be asked to do those studies. I'm not sure if he was, you know, ever told that directly, but I think he surmised that. But in any event, at the end of the day, Monsanto decided that they would not do the studies and	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. Yes. Q. And, in fact, you're aware that those studies were submitted to EPA as part of a 2002 tolerance approval process; correct? A. I'm not aware of that. Q. You don't recall that from prior depositions? A. No, I don't. Q. Any reason to believe that those studies were not submitted to EPA? And I'm not strike that. Those studies were submitted to EPA by commenters, not by Monsanto; correct? A. I don't recall. Q. Any reason to believe that they were not submitted by commenters? A. No. Q. So let's turn to paragraph 498 of your report. So you state in paragraph A. Hang on. Q. Oh, sure. A. 498? Q. 498 on page 110? A. Got it. Q. You state, "In my opinion, Dr. Parry's reports

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			ES BEIDLOOK, FILD.
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	potential of genotoxicity risk following significant		authors of the study; is that fair?
2	and/or long-term exposures to Roundup; and (3) conduct	2	A. I don't believe I said that. I mean, I I've
3	the various studies proposed by Dr. Parry to exposure		taken Dr. Parry's report at its word.
4	the genotoxicity of formulated glyphosate-based	4	Q. Understood. But Dr. Parry didn't look at those
5	herbicides."	5	8
6	Did I read that correctly?	6	the study had not found one; correct?
7	A. Yes.	7	A. I'm not aware of any episode of that or example
8	Q. So if I understand your opinion in this	8	of that.
9	paragraph, there are three separate parts to it;	9	Q. You also testified previously that these
10	correct?	10	studies were in the public literature; correct?
11	A. Yes.	11	A. Correct.
12	Q. So I'd like to break those down and take them	12	Q. So EPA had access to them; correct?
13	one at a time, if that's okay.	13	A. Correct.
14	A. Fine.	14	MR. FAYNE: Mark this as Exhibit 11.
15	Q. So first you state that Dr. Parry's reports	15	MR. KRISTAL: Thank you.
16	triggered an obligation, presumably from Monsanto, to	16	(Exhibit 11 marked for identification.)
17	report the information to EPA; is that correct?	17	Q. (BY MR. FAYNE:) I'm showing you an exhibit
18	A. Correct.	18	marked Number 11, which is 40 CFR Part 159, Subpart D.
19	Q. What is the source of the obligation from	19	And it's Reporting Requirements for Risk/Benefit
20	Monsanto to report those studies to EPA?	20	Information.
21	A. FIFRA, Section $6(a)2(B)$, the adverse health	21	A. Correct.
22	effects reporting requirement.	22	Q. You've seen this before; correct?
23	MR. KRISTAL: That's FIFRA, F-I-F-R-A, all in	23	A. Yes.
24	caps.	24	Q. And if you look at Section 159.152, it states,
25	Q. So you're aware that EPA has adopted	25	in paragraph C, that "Compliance with this part will
		-	
	Page 143		Page 145
	regulations implementing FIFRA Section 6(a)(2); correct?	1	satisfy a registrant's obligations to submit additional
2	regulations implementing FIFRA Section 6(a)(2); correct? A. Yes.	2	satisfy a registrant's obligations to submit additional information pursuant to Section 6(a)(2)"; correct?
2 3	regulations implementing FIFRA Section 6(a)(2); correct?A. Yes.Q. Have you reviewed those regulations?	2 3	satisfy a registrant's obligations to submit additional information pursuant to Section 6(a)(2)"; correct?A. Correct.
2 3 4	regulations implementing FIFRA Section 6(a)(2); correct?A. Yes.Q. Have you reviewed those regulations?A. Yes.	2 3 4	satisfy a registrant's obligations to submit additional information pursuant to Section 6(a)(2)"; correct?A. Correct.Q. And these regulations were adopted in the late
2 3 4 5	regulations implementing FIFRA Section 6(a)(2); correct?A. Yes.Q. Have you reviewed those regulations?A. Yes.Q. When was the last time you reviewed them?	2 3 4 5	satisfy a registrant's obligations to submit additional information pursuant to Section 6(a)(2)"; correct?A. Correct.Q. And these regulations were adopted in the late 1990s; correct?
2 3 4 5 6	 regulations implementing FIFRA Section 6(a)(2); correct? A. Yes. Q. Have you reviewed those regulations? A. Yes. Q. When was the last time you reviewed them? A. It's been many times. Probably in the last 	2 3 4 5 6	 satisfy a registrant's obligations to submit additional information pursuant to Section 6(a)(2)"; correct? A. Correct. Q. And these regulations were adopted in the late 1990s; correct? A. Correct. And changed a couple of times.
2 3 4 5	 regulations implementing FIFRA Section 6(a)(2); correct? A. Yes. Q. Have you reviewed those regulations? A. Yes. Q. When was the last time you reviewed them? A. It's been many times. Probably in the last couple months when I there are two of the two of 	2 3 4 5	 satisfy a registrant's obligations to submit additional information pursuant to Section 6(a)(2)"; correct? A. Correct. Q. And these regulations were adopted in the late 1990s; correct? A. Correct. And changed a couple of times. Q. Sure. More if you look, for instance, at
2 3 4 5 6	 regulations implementing FIFRA Section 6(a)(2); correct? A. Yes. Q. Have you reviewed those regulations? A. Yes. Q. When was the last time you reviewed them? A. It's been many times. Probably in the last couple months when I there are two of the two of the passages from 6(a)2(B) are quoted verbatim in the 	2 3 4 5 6	 satisfy a registrant's obligations to submit additional information pursuant to Section 6(a)(2)"; correct? A. Correct. Q. And these regulations were adopted in the late 1990s; correct? A. Correct. And changed a couple of times. Q. Sure. More if you look, for instance, at the very end of this document, you can see that they
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2 3 4 5 6 7 8 9	 regulations implementing FIFRA Section 6(a)(2); correct? A. Yes. Q. Have you reviewed those regulations? A. Yes. Q. When was the last time you reviewed them? A. It's been many times. Probably in the last couple months when I there are two of the two of the passages from 6(a)2(B) are quoted verbatim in the report, so it would have been in late November. Q. And just to be clear, you've reviewed the regulations in the 40 CFR Part 158? 	2 3 4 5 6 7 8 9	 satisfy a registrant's obligations to submit additional information pursuant to Section 6(a)(2)"; correct? A. Correct. Q. And these regulations were adopted in the late 1990s; correct? A. Correct. And changed a couple of times. Q. Sure. More if you look, for instance, at the very end of this document, you can see that they were adopted initially in September 1997, and then amended in June 1998, correct, at the very bottom? A. I see yes, I see that. Yep.
2 3 4 5 6 7 8 9 10	 regulations implementing FIFRA Section 6(a)(2); correct? A. Yes. Q. Have you reviewed those regulations? A. Yes. Q. When was the last time you reviewed them? A. It's been many times. Probably in the last couple months when I there are two of the two of the passages from 6(a)2(B) are quoted verbatim in the report, so it would have been in late November. Q. And just to be clear, you've reviewed the regulations in the 40 CFR Part 158? A. Yeah. Yes, sir. 	2 3 4 5 6 7 8 9 10 11 12	 satisfy a registrant's obligations to submit additional information pursuant to Section 6(a)(2)"; correct? A. Correct. Q. And these regulations were adopted in the late 1990s; correct? A. Correct. And changed a couple of times. Q. Sure. More if you look, for instance, at the very end of this document, you can see that they were adopted initially in September 1997, and then amended in June 1998, correct, at the very bottom? A. I see yes, I see that. Yep. Q. If you turn to Section 159.155.
2 3 4 5 6 7 8 9 10 11	 regulations implementing FIFRA Section 6(a)(2); correct? A. Yes. Q. Have you reviewed those regulations? A. Yes. Q. When was the last time you reviewed them? A. It's been many times. Probably in the last couple months when I there are two of the two of the passages from 6(a)2(B) are quoted verbatim in the report, so it would have been in late November. Q. And just to be clear, you've reviewed the regulations in the 40 CFR Part 158? A. Yeah. Yes, sir. Q. And your opinion, based on your review of those 	2 3 4 5 6 7 8 9 10 11	 satisfy a registrant's obligations to submit additional information pursuant to Section 6(a)(2)"; correct? A. Correct. Q. And these regulations were adopted in the late 1990s; correct? A. Correct. And changed a couple of times. Q. Sure. More if you look, for instance, at the very end of this document, you can see that they were adopted initially in September 1997, and then amended in June 1998, correct, at the very bottom? A. I see yes, I see that. Yep. Q. If you turn to Section 159.155. A. Okay.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 regulations implementing FIFRA Section 6(a)(2); correct? A. Yes. Q. Have you reviewed those regulations? A. Yes. Q. When was the last time you reviewed them? A. It's been many times. Probably in the last couple months when I there are two of the two of the passages from 6(a)2(B) are quoted verbatim in the report, so it would have been in late November. Q. And just to be clear, you've reviewed the regulations in the 40 CFR Part 158? A. Yeah. Yes, sir. Q. And your opinion, based on your review of those regulations, is that Monsanto had a legal obligation to submit the Parry report; is that correct? A. Yes. Q. And when you say in your opinion that it triggered an obligation to report the information to EPA, what information specifically are you referring to? 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 satisfy a registrant's obligations to submit additional information pursuant to Section 6(a)(2)"; correct? A. Correct. Q. And these regulations were adopted in the late 1990s; correct? A. Correct. And changed a couple of times. Q. Sure. More if you look, for instance, at the very end of this document, you can see that they were adopted initially in September 1997, and then amended in June 1998, correct, at the very bottom? A. I see yes, I see that. Yep. Q. If you turn to Section 159.155. A. Okay. Q. "When information must be submitted." A. Yeah. Q. And Subpart A reads, "The following reportable information must be received by EPA not later than the 30th calendar day after the registrant first possesses or knows of the information"; correct?
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 regulations implementing FIFRA Section 6(a)(2); correct? A. Yes. Q. Have you reviewed those regulations? A. Yes. Q. When was the last time you reviewed them? A. It's been many times. Probably in the last couple months when I there are two of the two of the passages from 6(a)2(B) are quoted verbatim in the report, so it would have been in late November. Q. And just to be clear, you've reviewed the regulations in the 40 CFR Part 158? A. Yeah. Yes, sir. Q. And your opinion, based on your review of those regulations, is that Monsanto had a legal obligation to submit the Parry report; is that correct? A. Yes. Q. And when you say in your opinion that it triggered an obligation to report the information to EPA, what information specifically are you referring to? A. Parry's conclusions that glyphosate technical and formulated glyphosate-based herbicides appear to pose genotoxic risk. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 satisfy a registrant's obligations to submit additional information pursuant to Section 6(a)(2)"; correct? A. Correct. Q. And these regulations were adopted in the late 1990s; correct? A. Correct. And changed a couple of times. Q. Sure. More if you look, for instance, at the very end of this document, you can see that they were adopted initially in September 1997, and then amended in June 1998, correct, at the very bottom? A. I see yes, I see that. Yep. Q. If you turn to Section 159.155. A. Okay. Q. mWhen information must be submitted." A. Yeah. Q. And Subpart A reads, "The following reportable information must be received by EPA not later than the 30th calendar day after the registrant first possesses or knows of the information"; correct? A. Correct. Q. And then it lists seven categories of information; correct?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 regulations implementing FIFRA Section 6(a)(2); correct? A. Yes. Q. Have you reviewed those regulations? A. Yes. Q. When was the last time you reviewed them? A. It's been many times. Probably in the last couple months when I there are two of the two of the passages from 6(a)2(B) are quoted verbatim in the report, so it would have been in late November. Q. And just to be clear, you've reviewed the regulations in the 40 CFR Part 158? A. Yeah. Yes, sir. Q. And your opinion, based on your review of those regulations, is that Monsanto had a legal obligation to submit the Parry report; is that correct? A. Yes. Q. And when you say in your opinion that it triggered an obligation to report the information to EPA, what information specifically are you referring to? A. Parry's conclusions that glyphosate technical and formulated glyphosate-based herbicides appear to pose genotoxic risk. Q. You testified previously that you're not aware 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 satisfy a registrant's obligations to submit additional information pursuant to Section 6(a)(2)"; correct? A. Correct. Q. And these regulations were adopted in the late 1990s; correct? A. Correct. And changed a couple of times. Q. Sure. More if you look, for instance, at the very end of this document, you can see that they were adopted initially in September 1997, and then amended in June 1998, correct, at the very bottom? A. I see yes, I see that. Yep. Q. If you turn to Section 159.155. A. Okay. Q. "When information must be submitted." A. Yeah. Q. And Subpart A reads, "The following reportable information must be received by EPA not later than the 30th calendar day after the registrant first possesses or knows of the information"; correct? A. Correct. Q. And then it lists seven categories of information; correct?

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	Page 146		Page 148
1	A. Well, the in I don't remember exactly in	1	under $6(a)(2)$, yes.
	my report where I quote from $6(a)2(B)$. It states	2	Q. And so previously we were discussing
	clearly that consultant reports are including	3	Section 159.155; correct?
	preliminary reports are among the data that, and	4	A. Okay.
	information, that should be provided to the agency	5	Q. And that section provides when information must
	if and on the understanding that the information is		be submitted. So my question to you again is: What
	new, has new value. Registrants are not under an		category of which of these seven categories does the
	obligation to submit over and over again the same		Dr. Parry report fit into?
	information that has been provided to the agency.	9	A. The first one, scientific studies, I suppose.
10	So the the component of Parry's report that		It's Parry's report was a scientific review, review,
11	in my judgment triggered an obligation to provide the		study.
12	information to EPA under $6(a)(2)$ was his his	12	Q. Okay. Well, let's let's turn to so
13	conclusion that there is valid science suggesting that	13	
14	both glyphosate technical and formulated	14	we turn to 169 159.165.
15	glyphosate-based herbicides have genotoxic potential,	15	A. Okay.
	which is not the conclusion or the information that	16	Q. So 159.165 lists it looks like there's
17	Monsanto had provided to the EPA.	17	toxicological studies, ecological studies, results from
18	Q. Let me I'm going to parse what you just	18	a study that demonstrates any toxic effect, and then
19	said.	19	(d), incomplete studies. Did I state that accurately?
20	If I heard you correctly, you stated that	20	A. Yes.
21	Section $6(a)(2)$ of FIFRA states that expert reports must	21	Q. I presume you're referring to this as a
	be submitted.		toxicological study; is that correct?
23	A. That consult yeah. Yeah. Reports	23	A. Parry's review, it's a review of toxicological
	commissioned by a registrant, done on behalf of a		studies involving genotoxicity assays, yeah.
25	registrant, and I think they actually use the term	25	Q. Okay. So Section 1 under "Toxicological
	Page 147	-	Page 149
1	Page 147 "consultant."	1	Page 149 studies" states that, "The results of a study of the
1 2			-
2	"consultant."	2	studies" states that, "The results of a study of the
2	"consultant." Q. So if I look at FIFRA Section 6(a)(2), I'll see	2 3	studies" states that, "The results of a study of the toxicity of a pesticide to humans or other non-target
2 3	"consultant."Q. So if I look at FIFRA Section 6(a)(2), I'll see language about experts and consultants?A. The passage is in my report. We can find it.	2 3 4	studies" states that, "The results of a study of the toxicity of a pesticide to humans or other non-target domestic organisms if, relative to all previously
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1	-	1	-
	the EPA already had in its possession and could review		finish Parry.
	itself; correct?	2	Q. (BY MR. FAYNE:) Is it your position that the
3	A. I believe all of the studies that Monsanto	3	authors of the studies that Dr. Parry reviewed were not
4	provided to Parry were either a registrant study that	4	
	had already been submitted to EPA or a study in the	5	A. No.
6	peer-reviewed literature.	6	Q. The authors of those studies, you would
7	Q. You would agree that EPA is capable of	7	, , , , , , , , , , , , , , , , , , ,
	reviewing those studies and assessing for itself whether	8	A. Well, they conducted the studies. I don't I
9	they show a genotoxic risk; correct?	9	haven't reviewed the résumés of all of the scientists
10	A. Yes.	10	that conducted those studies, and particularly there
11	Q. You testified previously that Dr. Parry's		would be no way to do so on the registrant-commissioned
12	report provided new information that was not previously	12	studies.
13	known to the agency. What new information?	13	Q. Let's focus specifically on the studies that
14	A. That an internationally recognized expert in	14	were in the published literature, not the
15	genotoxicity that Monsanto reached out to, because of	15	registrant-commissioned studies.
16	his technical competence and experience, upon	16	Would you agree that the authors of those
17	examination of a set of studies, reached a different	17	studies that we've been discussing, that they were
18	conclusion than Monsanto did about the genotoxic	18	qualified experts in genotoxicity?
19	potential of glyphosate and glyphosate-based herbicides.	19	A. Yes.
20	That is that is exactly the significance of	20	Q. And the authors of those studies concluded
21	Parry's work and analysis that is important in the	21	that they ran a study. It showed a genotoxic effect.
22	record of this case.	22	Correct?
23	Q. When EPA determines whether or not pesticide	23	A. Some of them, yeah.
24	poses a genotoxic risk, does it rely on the registrant's	24	Q. And EPA had access to their conclusions,
	characterization of the studies or does it review the	25	correct, because they're in the published literature?
		-	
	Page 151		Page 153
	studies itself and reach a determination?	1	A. Correct.
2	studies itself and reach a determination? A. It it typically relies on the registrant's	2	A. Correct.Q. We also discussed previously that EPA has
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	D 154		D 156
1	Page 154	1	Page 156
	through any route of exposure?		Q. I'd like to turn now to page 96 of your report.
2	A. They didn't address the other routes of	2	A. All right.
3	exposure or the other exposure levels.	3	Q. And this is a section of your report where
4	Q. Your understanding is that when EPA assesses		you're discussing the TNO study; correct?
5	the genotoxic potential of a pesticide, it only looks at	5	A. Correct.
6	the oral route of exposure, in the case of glyphosate?	6	Q. Which was a dermal penetration study?
7	A. No, that's not my understanding.	7	A. Yes, sir.
8	Q. So did they evaluate whether glyphosate poses a	8	Q. The study was conducted in 2002; correct?
9	genotoxic risk through other routes of exposure?	9	A. Correct.
10	A. Not to any significant extent, you know, in	10	Q. And it was conducted in response to some
	terms of the content of the September 2016 report. And	11	
	had they done such an analysis, they would not have	12	A. That was certainly one of the motivating
	included the additional phrase "through the oral route	13	factors, yes.
14	of exposure." They would have said, "through the oral	14	Q. And by "EU," I should say, European regulators;
15	and inhalation or dermal routes of exposure."	15	correct?
16	They clearly felt that their judgment about	16	A. Correct.
17	genotoxic risk was conditioned upon typical levels of	17	Q. So performed for compliance purposes in Europe;
18	exposure through the diet, and that's why they included		agree?
19	that phrase in their summary statement.	19	A. To augment the dossier the Germans were putting
20	Q. You've never assisted a pesticide manufacturer	20	together.
21	or any other company in evaluating whether to submit	21	MR. FAYNE: I'm going to mark as Exhibit 12 the
22	information under 6(a)(2); correct?	22	final TNO report.
23	A. Some you know, I think some $6(a)(2)$ issues	23	THE WITNESS: Thank you.
24	came up in my work for a pesticide manufacturer called	24	MR. KRISTAL: Thank you.
25	Appropriate Technology Limited. I did some work with	25	(Exhibit 12 marked for identification.)
	Page 155		Page 157
1	Page 155	1	Page 157 O (BY MR EAVNE) Turn to page 25 of 41
	them on registration matters in the '90s.	1	Q. (BY MR. FAYNE:) Turn to page 25 of 41.
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	confidential confidential char		,
	Page 158		Page 160
1	this study unsuitable for risk assessment."	1	study that I think are reliable for risk assessment
2	Did I read that correctly?	2	r r
3	A. Yes, you did.	3	Q. Do you agree that the study overall was not
4	Q. And you cite this statement in your report;	4	I I
5	correct?	5	A. I think the as I said, I think there's
6	A. I do.	6	
7	Q. In other words, the study authors concluded	7	
8	that the data generated were unsuitable for risk	8	highlighted as problematic. There are certainly other
9	assessment. Do you agree with that?	9	aspects of the study that are highlighted as a problem
10	A. Certain aspects of it.	10	and a source of concern.
11	Q. Which aspects do you not agree with? Sorry,	11	So I you know, I recognize that that TNO
12	were you saying you agree with certain you were	12	in this last version made this statement that they
13	agreeing with the fact that the study authors stated	13	didn't they didn't feel that the study was up to
14	certain aspects were not reliable for	14	snuff for risk-assessment purposes, and in fact it's why
15	A. Correct.	15	they offered to reproduce the study or redo the study at
16	Q regulatory purposes?	16	no cost, to clear up any ambiguity about the findings.
17	Let me ask the question again just to make sure	17	Q. You state you just testified and you state
18	the record is clear.	18	in your report that TNO agreed to reproduce this study
19	The study authors concluded that the data	19	at no cost.
20	generated are unsuitable for risk assessment; agree?	20	A. Correct.
21	A. That's that's what they wrote, yes.	21	Q. What are you relying on for that statement?
22	Q. Do you have any basis to disagree with their	22	A. A MONGLY e-mail where let's see through
23	conclusion that it was not suitable for risk assessment?	23	or one of the one of the
24	A. Just that there there are as they say,	24	
25	they're highlighting poor recoveries as one issue.	25	TNO directly was reporting to his colleagues about a
	Page 159		Page 161
	rage 139		rage 101
1	There was also a lot of variability in some of the	1	recent interaction with TNO over the remaining questions
1	-	1	-
2	There was also a lot of variability in some of the	2 3	recent interaction with TNO over the remaining questions about certain aspects of the study. Q. So your testimony is that there is an e-mail,
2 3	There was also a lot of variability in some of the autoradiography aspects of the study, which were	2 3	recent interaction with TNO over the remaining questions about certain aspects of the study.
2 3 4 5	There was also a lot of variability in some of the autoradiography aspects of the study, which were highlighted, but there were other aspects of the study that weren't highlighted or discussed as problematic. Q. For the areas of the study that were	2 3 4	recent interaction with TNO over the remaining questions about certain aspects of the study. Q. So your testimony is that there is an e-mail, internal Monsanto e-mail, in which they report about conversations with TNO; is that correct?
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		<u> </u>	·
	Page 162		Page 164
	herbicides in Europe. There's a yeah, there's a		come into play in answering your question.
	very there's an extensive back-and-forth about it.	2	Q. Sir, I'm asking you what testimony you intend
3	Q. If you turn back to page 25 of the report, it		to offer at trial of this matter, and my question is
	also states that, "The properties of the formulation		whether you intend to testify that Monsanto had a legal
5	made it difficult to quantify the exact amount applied	5	obligation to submit this report to EPA?
6	onto the skin and to guarantee contact of the fluid with	6	A. I will certainly testify that Monsanto had an
7	the entire skin surface."	7	obligation to submit one of the TNO reports. They
8	A. Yes.	8	all all of them have the same core finding with the
9	Q. And the next sentence states, "These problems	9	exception of the revision of the dermal penetration rate
10	may have caused the irregular recovery and the high	10	for the technical glyphosate concentrate.
11	variation of the absorption data"; correct?	11	There was a revision between the initial draft
12	A. Correct.	12	and the second draft in the skin penetration rate for
13	Q. So they're identifying a number of problems	13	the technical glyphosate from 1 point something, 1.12,
14	with the study; correct?	14	to .52. That was the only change in the core findings
15	A. Yeah. Potential problems, potential	15	of the report, and those core findings are stated in
16	explanations.	16	exactly the same way in all four versions, with the
17	Q. Would you agree that Monsanto was not required	17	exception of that that one revision that happened
18	to submit this final report? And right now I'm just	18	between the first draft and the second draft.
19	referring to the final report, that Monsanto is not	19	After the second draft, so in the third and
20	required to submit this final report to EPA?	20	fourth, that number also did not change. So what I
21	A. Well, they I don't think they would be	21	regard as the core findings and the most important
22	required to submit the final report had they submitted	22	findings and certainly the most important findings to
23	the first draft report, which they surely were required	23	Monsanto in terms of the perceived threat to
	to submit.	24	glyphosate's freedom to operate in Europe, was those
25	Q. We'll get to that in a second.		core findings, which did not change from one version of
	Q. We fi get to that in a second.		core midnigs, which did not change from one version of
	Page 163		Page 165
1	A. Okay.	1	the report to the final version.
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	conridentiar char		
	Page 166		Page 168
1	first draft, the second draft, the third draft, et	1	Yeah, here. Here they are.
2	cetera; correct?	2	So there's quality assurance statement on
3	A. Correct. I understand what you're getting at	3	page 6. There's a statement of GLP compliance on
4	now. Yes.	4	page 5. There's a testing facility acknowledgment on
5	Q. So fair to say that the study authors would	5	page 8, and a GLP compliance monitoring unit statement
6	have reached the same conclusion with respect to	6	on page 7.
7	draft one, that it was not suitable for risk assessment	7	Q. And sorry to sorry to interrupt, but you're
8	purposes; correct?	8	looking at the final report; correct?
9	A. No, I can't I can't say that. I mean, it's	9	A. Oh, okay.
10	a hypothetical.	10	Q. I'll
11	After this series of communications with	11	A. Yes.
12	Monsanto that extended over a whole year where Monsanto	12	Q. I'm going to mark as Exhibit 13
13	was extremely upset about the findings of the study,	13	A. Now, don't you be tricking me that way.
14	didn't want to didn't believe them, felt that there	14	Q. I wasn't trying to, trust me.
15	was something wrong with the study, at the end of that	15	MR. FAYNE: I'm going to mark as Exhibit 13 the
16	discussion, the TNO people agreed to put in this	16	June 14th, 2002, draft TNO report.
17	paragraph that said they didn't they felt that the	17	MR. KRISTAL: Thank you.
18	poor recoveries and some of the other problems with the	18	(Exhibit 13 marked for identification.)
19	study render it unsuitable for risk-assessment purposes.	19	THE WITNESS: Okay. I have this in front of
20	That's that's what TNO has said. TNO did	20	me.
21	not retract the empirical findings, the core empirical	21	Q. (BY MR. FAYNE:) So if you turn to page 4 of
	findings, which I would have expected them to do if they	22	35, you'll see that there's a statement of GLP
	felt they were unreliable.	23	compliance. Do you see that?
24	Q. In the final report, TNO identifies poor	24	A. Yes.
	recoveries; correct?	25	Q. And you see that the statement of GLP
	Page 167		Page 169
1	A. Correct.		compliance was not signed by the study director.
2	Q. Those poor recoveries would have existed at the	2	A. Correct.
2 3	Q. Those poor recoveries would have existed at the time of the first draft of that report; correct?	2 3	A. Correct. Q. Correct?
2 3 4	Q. Those poor recoveries would have existed at the time of the first draft of that report; correct?A. Correct.	2 3 4	A. Correct.Q. Correct?A. Correct.
2 3 4 5	Q. Those poor recoveries would have existed at the time of the first draft of that report; correct?A. Correct.Q. TNO also identifies in the final report high	2 3 4 5	A. Correct.Q. Correct?A. Correct.Q. You would agree with me that GLP compliance
2 3 4 5 6	Q. Those poor recoveries would have existed at the time of the first draft of that report; correct?A. Correct.Q. TNO also identifies in the final report high variation within the test groups; correct?	2 3 4 5 6	A. Correct.Q. Correct?A. Correct.Q. You would agree with me that GLP compliance statements are an important part of any GLP study?
2 3 4 5 6 7	Q. Those poor recoveries would have existed at the time of the first draft of that report; correct?A. Correct.Q. TNO also identifies in the final report high variation within the test groups; correct?A. Correct.	2 3 4 5 6 7	 A. Correct. Q. Correct? A. Correct. Q. You would agree with me that GLP compliance statements are an important part of any GLP study? A. Of course.
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	Page 170		Page 172
1	Q had not yet been audited; correct?	1	study were unsuitable for risk assessment; correct?
2	A. Correct. It states right upfront it's the	2	A. Yeah, they said you know, they said data
3	unaudited draft report.	3	that was generated in the study was unsuitable.
4	Q. Would you agree with me that the data that the	4	Q. So if the data generated in the study was
5	study authors relied upon in the final report were the	5	unsuitable, wouldn't that suggest that the core findings
6	same as the data that they were relying upon in this	6	of the study were unsuitable?
7	draft report? Correct?	7	A. If TNO had felt all of the data was unsuitable,
8	A. They they re-did a few of the calculations,	8	I think they would have deleted the findings from the
9	and they as I said, they did make an adjustment in	9	study.
10	one of the core findings, but that was done between	10	Q. What's your basis for speculating that TNO
11	draft report number 1 and the second version and did not	11	would have deleted the findings from the study?
12	change in the subsequent two versions.	12	MR. KRISTAL: Objection to the form.
13	Q. Between draft report number 1 and the final	13	A. If they felt that they were unreliable and
14	report, TNO didn't conduct any new primary studies;	14	unsuitable for any use, including risk assessment, they
15	correct?	15	would have deleted the deleted the findings.
16	A. Yes, sir. That's my understanding.	16	Q. How do you know that TNO would have deleted the
17	Q. As I understand your report, your opinion is	17	
18	that draft reports such as this draft TNO report should	18	A. How do I know? Well, I guess I don't. I'm not
19	be submitted to EPA; correct?	19	part of their organization. I don't know what their
20	A. Yeah. It would fall under the category of a	20	policies are.
21	preliminary report. That's the term that EPA uses	21	But just a read of their studies, it is pretty
22	in or maybe it's from the U.S. Congress in the	22	clear the areas of the study where there were issues
23	6(a)(2) statute.	23	that were discussed between the Monsanto scientists and
24	Q. So based on your review of the statute and	24	the TNO scientists, issues which were identified in the
	presumably EPA's regulations, it's your opinion that		later versions of it as in particular, the poor
	provinition of 21110 regulations, res your opinion that		
	Page 171		Page 173
1	Page 171 Monsanto had a legal obligation to submit this report?		recoveries and the some issues with the
1 2	Monsanto had a legal obligation to submit this report? A. Yes.		recoveries and the some issues with the autoradiography. Those are discussed in increasing
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	Page 174		Page 176
1	which I conclude Monsanto failed to meet obligations		is that by not repeating the mouse study in the 1980s,
2		2	Monsanto was in violation of EPA regulations; correct?
3	Did I read that correctly?	3	A. When when the agency puts a requirement in a
4	A. Yes.	4	registration standard document and states that it must
5	Q. I understand from your prior testimony today	5	be done by a particular date, if a registrant doesn't do
6	that you contend that Monsanto should have submitted the	6	that, then they haven't followed an EPA requirement,
7	Parry report and TNO study to EPA; correct?	7	yeah.
8	A. Correct.	8	Q. Are you aware of whether EPA ever made a
9	Q. Other than those two events, can you identify	9	finding that EPA was in violation of a regulatory
10	for me any other action that you claim Monsanto took	10	requirement?
11	that violated federal law or EPA regulations?	11	A. You mean that Monsanto was in violation?
12	A. In the 1986 registration standard, EPA imposed	12	Q. Yeah. Let me restate the question. Thank you.
13	on glyphosate registrants which at the time were only	13	A. Okay.
14	Monsanto a requirement to add a number of worker	14	Q. Are you aware of whether EPA ever made a
15	safety provisions onto the label. They gave them until	15	finding that Monsanto was in violation of a regulatory
16	June of 1988, I believe. I don't remember the exact	16	requirement?
17	date. It's in my report. Monsanto refused to add those	17	A. You know, I don't I'm not aware of a I
18	additional worker safety provisions onto the label, and	18	guess I am aware that there were there were formal
19	to this date they're not on the label.	19	findings on some inappropriate advertising that the
20	EPA requested Monsanto to do a repeat mouse	20	enforcement division of EPA investigated and forced
21	oncogenicity study to resolve the issues in the 1983	21	Monsanto to change the content of some advertising which
22	Bio/dynamics study. Monsanto refused to conduct that	22	was not in compliance with EPA regulations for truthful
23	study. After the resectioning of the slides and the	23	advertising. I think there was maybe four episodes of
24	even deeper controversy over the 1983 study, EPA	24	that; one or two in Iowa, a couple in New York, and
25	designed a special study designed to resolve the kidney	25	maybe one or two others.
	Page 175		Page 177
1	Page 175 tumor issue in the Bio/dynamics mouse study and	1	Page 177 O So I'll come back to that later. I'm referring
	tumor issue in the Bio/dynamics mouse study, and	1	Q. So I'll come back to that later. I'm referring
2	tumor issue in the Bio/dynamics mouse study, and Monsanto refused to carry that study out.	2	Q. So I'll come back to that later. I'm referring specifically to the two violations that you asserted a
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	Page 178		Page 180
1	A. No, I don't I don't believe they ever made a	1	MR. KRISTAL: You mean the actual label? Label
	finding. It was just a debate over mouse oncogenicity,		can mean advertising, marketing.
3	you know, that has persisted now for 30 years.	3	MR. FAYNE: Sure.
4	Q. Do you have any knowledge of the communications	4	Q. (BY MR. FAYNE:) So EPA Monsanto couldn't
5	between Monsanto strike that.	5	put language on the label of its pesticide product
6	In your report you detail a number of		without EPA approval; correct?
7	communications between Monsanto and EPA in the 1980s;	7	A. Yes. That's correct.
8	correct?	8	Q. EPA will not approve a label unless, in its
9	A. Yes.	9	view, the label directions and safety precautions are
10	Q. Some of those relate to the 1986 registration	10	sufficient to ensure that the pesticide will not cause
11	standard; correct?	11	any unreasonable adverse effect on man or the
12	A. Yes. Yes.	12	environment; correct?
13	Q. And as we were just discussing in that	13	A. That's the basic standard in the FIFRA statute,
14	registration standard, EPA set forth a requirement for	14	and it's certainly the goal and the hope of EPA and
15	certain labeling provisions related to worker safety;	15	registrants that all provisions that go onto labels will
16	correct?	16	achieve that.
17	A. Correct.	17	But in the case of the worker safety provisions
18	Q. Other than what you've spelled out in your	18	in the 1986 registration standard which EPA felt were
19	report, are you aware of any other conversations or	19	required to and justified to reduce applicator,
20	communications between EPA and Monsanto regarding the	20	mixer/loader exposures, those those were never put
21	labeling requirements in the 1986 registration standard?	21	onto the label because Monsanto refused to do so, argued
22	A. Yes.	22	that they weren't needed, argued that there was a
23	Q. What communications?	23	generic revision of the worker safety standard that was
24	A. Well, dialogue that went on between the 1986	24	moving through the system and that any final action on
25	registration standard and the 1993 R.E.D. I mean, it	25	additional worker safety provisions on the labels should
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1	Page 179		Page 181
1		1	-
1	was an ongoing discussion about what additional worker		be deferred until that was completed, and on and on and
2	was an ongoing discussion about what additional worker safety provisions should be on all of the Roundup	2	be deferred until that was completed, and on and on and on.
2 3	was an ongoing discussion about what additional worker safety provisions should be on all of the Roundup labels.	2 3	be deferred until that was completed, and on and on and on. And, you know, basically Monsanto disagreed
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	Page 182		Page 184
	Roundup over those those that page and a half of		at any one time over the history of glyphosate-based
2	additional worker safety provisions that Monsanto		herbicides manufactured and sold by Monsanto, there's
	refused to put on its label.	3	probably 90 percent of the volume is from six or so
4	So EPA had a choice, and they they were not		different formulations, or very modest changes in them.
	willing to exercise their legal right to initiate a	5	Q. Anytime Monsanto, or any pesticide
6	cancellation action, and so Monsanto prevailed in		manufacturer, introduces a new end-use product, they
7	that in that event.		have to get approval from the EPA for the label;
8	Q. Just to understand strike that.	8	correct?
9	Just to make sure I understand your testimony,	9	A. That's correct.
10	you're suggesting that if EPA had stated that it was	10	Q. So any time after 1986 that Monsanto wanted to
11	going to cancel the pesticide registration if Monsanto		introduce a new glyphosate-based product, it would have
12	didn't put the worker safety language on the label, that	12	5 11
	Monsanto would have played a game of chicken and waited	13	product; correct?
	for EPA to cancel the registration?	14	A. Correct.
15	A. Well, that that is the only that would be	15	Q. Isn't it the case, Dr. Benbrook, that the EPA
16	the only option that given that it's Monsanto's	16	could reject any of those applications for a new end-use
17	responsibility to generate the labels and to also write	17	product if it didn't agree with the worker safety
18	any alternative label language in a label amendment, the		language on the product label?
19	changes on the label have to come from Monsanto and be	19	A. Yeah, technically they could, but what what
20	submitted to EPA.	20	
21	Monsanto was unwilling to propose adding the	21	,
22	additional worker safety provisions on any of the	22	
23	Roundup labels. EPA could have initiated a cancellation	23	Q. But without EPA approval, Monsanto wouldn't be
24	action for Monsanto's failure to comply with a	24	able to introduce new glyphosate-based products;
25	requirement in the 1986 registration standard. They	25	correct?
	Page 183		Page 185
1	Page 183 were clearly within their rights to do that.	1	Page 185 A. Yeah. If the EPA denied an application for a
1 2	-		C
2	were clearly within their rights to do that.		A. Yeah. If the EPA denied an application for a
2 3	were clearly within their rights to do that. They could have done it, but they did not do	2 3	A. Yeah. If the EPA denied an application for a new version of Roundup, they could do that, yes.
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	Page 186		Page 188
1	A. Yes.	1	
2	Q in the 1986 registration standard; correct?	2	-
3	A. Uh-huh. Correct.	3	A. Correct.
4	Q. And paragraph 391, you note the EPA's primary	4	Q. Or what products Mr. Gebeyehou used?
5	concern that led to their decision to include this	5	A. Also correct.
6	language in the registration standard document was eye	6	Q. You agree that EPA has sole authority within
7	and skin irritation; correct?	7	
8	A. Correct.	8	
9	Q. Not cancer; correct?	9	A. What EPA does provide some authority to
10	A. Correct.	10	
11	Q. Turn to page 398.	11	
12	A. Paragraph 398.	12	
13	Q. I'm sorry.	13	agreement.
14	A. It's all right.	14	Q. So you agree that EPA has sole authority within
15	Q. I'll get it right one of these times.	15	
16	A. You got it right the time before.		registrations; correct?
17	Q. You quote from the registration standard	17	A. Yes.
18	document; correct?	18	
19			Q. And that means every pesticide sold and
	A. We're talking 399?	19	distributed in the United States must be registered and
20	Q. 398.	20	approved by EPA; correct? A. Correct.
21	A. Oh, okay. Yes.	21	
22	Q. And you quote from that document that, "Worker	22	Q. We were discussing previously that EPA has
23	safety rules must appear on end-use products containing	23	, , , , , , , , , , , , , , , , , , ,
24	glyphosate, except for those labeled for homeowner use		correct?
25	only"; correct?	25	A. We spoke about that some, yes.
	Page 187		D
	Page 187		Page 189
1	A. Correct.	1	Q. And you state in your report at paragraph 179
1	-		-
	A. Correct.		Q. And you state in your report at paragraph 179 that, "As of 1994, cancer risk was the most commonly
2 3	A. Correct.Q. And that is consistent with the current EPA	2	Q. And you state in your report at paragraph 179 that, "As of 1994, cancer risk was the most commonly cited reason for pesticide cancellation and suspension
2 3 4	A. Correct.Q. And that is consistent with the current EPA regulations which require worker safety statements only	2 3	Q. And you state in your report at paragraph 179 that, "As of 1994, cancer risk was the most commonly cited reason for pesticide cancellation and suspension
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	it is a bit of a dance, and EPA doesn't always get	1	data requirement. The special study that was designed
	everything that it feels is justified or warranted.		by EPA to resolve the lingering uncertainty over the
3	And so, you know, I I do believe that EPA	1	kidney tumors, that that's not a study that was part
	has fallen short of bringing about the degree of risk	4	of the core data requirements. It would be an
	reduction that that certainly their own reports seem	5	additional study.
	to consider justified.	6	Q. EPA also has authority to require registrants
7	Q. You would agree that under FIFRA, EPA is	7	to submit additional studies and data; correct?
8	required to ensure that any pesticide registered for use	8	A. Correct.
9	in the United States does not pose an unreasonable risk	9	Q. So EPA is not limited by the data requirements
10	to human health or the environment. Is that fair?	10	in Part 158; fair?
11	A. That's the basic standard for adverse effect,	11	A. Correct.
12	is the term of art, not risk.	12	Q. If EPA doesn't believe the information required
13	Q. And you would also agree with me that under the	13	
14	Food Quality Protection Act of 1996, EPA must find that	14	
15	a pesticide poses a, quote/unquote, reasonable certainty		that additional data be submitted; fair?
16	of no harm before it can be registered for use on food;	16	A. Very very true.
17	correct?	17	Q. And that could be through a formal data call-in
18	A. Correct. Well, it's actually they have to		or a more informal request to the registrant; correct?
19	determine that there's a reasonable certainty of no harm	19	A. Correct.
20	from establishing a pesticide tolerance. The tolerance	20	Q. EPA can also waive data requirements; correct?
21	must be in place before EPA will consider a registration	21	A. Correct.
22	application authorizing the use of the pesticide on the	22	Q. And it might do that if the data might not be
23	food crop for which the tolerance applies.		useful to the agency's evaluation?
24	Q. Okay. In your prior depositions you've been	24	A. Yeah. Because, for example, they have a very
25	asked about EPA's data requirements; correct?	25	similar study.
	Page 191		Page 193
1	Page 191 A. Yes.	1	Page 193 Q. Right. So they might have a similar study or
1 2	A. Yes.Q. And I don't want to go through those at length		Q. Right. So they might have a similar study or it might be an irrelevant route of exposure; correct?
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	Page 194		Page 196
1	A. Got it.	1	Q. So the kidney slides were resectioned and
2	Q. So in this section, you summarize in detail the		
	back-and-forth between Monsanto and EPA. Is that a fair		reevaluated; correct?
3	characterization?	3	A. Monsanto took it upon themselves to do it and
4			was hopeful that that would reopen the consideration of
5	A. Yes.		the renal tubular adenomas in the mouse study.
6	Q. Summarize documents from the public record and	6	Q. The agency also convened a scientific advisory
7	internal Monsanto e-mails; true?		panel to evaluate the study; correct?
8	A. Correct. Most of the material on the 1983	8	A. Actually a couple of them, but yes.
9	Bio/dynamics study is in the public in the public	9	Q. And so over this period of time, which spanned
10	domain. EPA cleared dozens of documents, and I I had		from roughly 1983 through 1986, is it fair to say that
11	already downloaded those and studied them for other	11	EPA engaged multiple experts to review this study?
12	projects that I've been involved with.	12	A. No. No. Monsanto did. Monsanto convened
13	Q. I know you've testified about these events in	13	several consultants to support its arguments to the
14	prior depositions, so I just want to walk through a few	14	agency, but the number of people inside EPA that looked
15	aspects of it, if that's okay.	15	at the study, that didn't change much. It was Lacayo
16	A. That would be fine.	16	and Reto Engler and Kasza, the pathologist, and Dykstra.
17	Q. You state in paragraph 277 of your report that	17	They were and Farber, of course, was the deputy, the
18	"Bio/dynamics concluded in its report that the slightly	18	head of the division. That cast of characters didn't
19	increased incidence of adenomas in the high-dose males	19	change much in the five-year period.
20	was considered spurious and unrelated to glyphosate	20	Q. Would you agree with me that EPA as a body
21	administration."	21	devoted a tremendous amount of time and attention to
22	Did I read that correctly?	22	this single study?
23	A. Yes, you did.	23	MR. KRISTAL: Objection.
24	Q. EPA initially reviewed the Bio/dynamics report	24	A. Absolutely.
25	and disagreed with that conclusion; correct?	25	Q. Do you contend that Monsanto made any material
	-		
	Page 195		Page 197
1	A. That's correct.	1	misrepresentation to the agency in connection with the
1	A. That's correct.Q. So EPA did not simply accept Monsanto's	1 2	1983 mouse study?
			1983 mouse study?A. What do you mean by "material"?
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2 3	Q. So EPA did not simply accept Monsanto's interpretation of the results; it pushed back on them?	2 3 4	1983 mouse study?A. What do you mean by "material"?
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	Page 198		Page 200
1	Q. So other than the statement that you referred		identified.
2	to about strike that.	2	So it's an example of where Monsanto really
3	So other than Frank Serdy's statement about	3	
	what various members of the SAP testified, you're not	4	
	aware of any misrepresentation by Monsanto in connection	5	
6	with this mouse study; correct?	6	attention to anyway.
7	A. I think the the word "misrepresentation" is	7	Q. But you don't contend that Monsanto manipulated
8	a fluid one, and I think the zeal with which Monsanto	8	or misrepresented the historical control data; correct?
9	always represented information about this 1983 mouse	9	A. No, didn't say that.
10	study to the EPA was so consistently biased in favor of	10	Q. And my question to you is whether Monsanto
11	and in the direction of Monsanto's read of the study and	11	misrepresented any fact, and so far I haven't heard one
12	hoped for evaluation of the study by by EPA that I	12	that they've misrepresented, but correct me if that's
13	think it could be characterized as really getting into	13	wrong.
14	the misrepresentation category.	14	MR. KRISTAL: Objection to the form of the
15	Q. You would agree with me that it's not unusual	15	question.
16	for registrants to communicate with EPA about a	16	A. I've already discussed the one example in the
17	particular study; correct?	17	record that I would where there is clear evidence
18	A. No, it's it's common.	18	that Monsanto did misrepresent facts.
19	Q. It's also common that registrants would try to	19	Q. So you would agree that other than that one
20	persuade the agency that their interpretation of the	20	example, there's not clear evidence that Monsanto
21	data was correct?	21	misrepresented a fact; correct?
22	A. That is also common.	22	A. There's not clear evidence that I've had a
23	Q. And are you contending today that trying to	23	chance to review yet. I would certainly not sit here
24	persuade the agency amounts to misrepresentation?	24	and say that there isn't clear evidence in the record.
25	A. It depends on how far it goes and what tactics	25	Q. Let's turn to paragraph 320 of your report.
	Page 199		Page 201
	are used and how how willing the registrant is to	1	And in this paragraph you describe that
2	are used and how how willing the registrant is to respond to the request for information that the agency	2	And in this paragraph you describe that Monsanto in the April through May 1985 period
2	are used and how how willing the registrant is to respond to the request for information that the agency provides to them along the way.	2 3	And in this paragraph you describe that Monsanto in the April through May 1985 period A. Yes.
2 3 4	are used and how how willing the registrant is to respond to the request for information that the agency provides to them along the way. Another example would be literally on the day	2 3 4	And in this paragraph you describe that Monsanto in the April through May 1985 period A. Yes. Q. And again, I'm going to ask you a very specific
2 3 4 5	are used and how how willing the registrant is to respond to the request for information that the agency provides to them along the way. Another example would be literally on the day that Monsanto found out that Dykstra's review of the	2 3 4 5	And in this paragraph you describe that Monsanto in the April through May 1985 period A. Yes. Q. And again, I'm going to ask you a very specific question, so I'm just going to set this up, if that's
2 3 4 5	are used and how how willing the registrant is to respond to the request for information that the agency provides to them along the way. Another example would be literally on the day that Monsanto found out that Dykstra's review of the Bio/dynamic study was going to identify oncogenic	2 3 4 5 6	And in this paragraph you describe thatMonsanto in the April through May 1985 periodA. Yes.Q. And again, I'm going to ask you a very specific question, so I'm just going to set this up, if that's okay.
2 3 4 5 6 7	are used and how how willing the registrant is to respond to the request for information that the agency provides to them along the way. Another example would be literally on the day that Monsanto found out that Dykstra's review of the Bio/dynamic study was going to identify oncogenic potential because of the renal tubular adenomas,	2 3 4 5 6 7	And in this paragraph you describe that Monsanto in the April through May 1985 period A. Yes. Q. And again, I'm going to ask you a very specific question, so I'm just going to set this up, if that's okay. So in April, May, 1985, Monsanto hired
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	Daga 202	1	Dama 204
1	Page 202	1	Page 204
1	A. 323. Okay. Yes. Okay. I'm there.	1	Q. If you could turn to page 14, please.
2	Q. So as of May 1985, EPA had not yet made its	2	A. First word, "Adenomas"?
	final determination as to whether the Bio/dynamic study	3	Q. Correct. And if you go to the second
	showed that glyphosate was oncogenic; correct?		paragraph, it's describing a carcinogenicity study in
5	A. Well, the review of Dykstra and the position		mice; correct?
6	taken by the CARC was it was still being discussed.	6	A. Let me just get a sense of the context here. I
7	They had they had reached the decision to classify	7	
8	glyphosate as a possible oncogen, but they were still	8	Q. That's correct.
9	discussing these aspects of the study with Monsanto.	9	A. Estimate usage, science assessment, product
10	Q. You state in your report that the Kuschner	10	chemistry
11	report delayed EPA's final determination; correct?	11	Okay. So you
12	A. Correct.	12	Q. That second paragraph is discussing the 1983
13	Q. So as of May 1985 when that report was	13	mouse study; correct?
14	submitted, EPA had not yet made its final determination?	14	MR. KRISTAL: Which paragraph?
15	A. Distinction between in the context of	15	THE WITNESS: The second one. Starting, "A
16	this this whole discussion, there's an OPP	16	carcinogenic study"; correct?
17	determination and there's an EPA determination. OPP had	17	MR. FAYNE: Correct.
18	made its determination via the hazard evaluation	18	THE WITNESS: Yes, okay. Correct.
19	division and Dykstra's review. I believe at this time	19	Q. (BY MR. FAYNE:) So you agree that this second
20	the CARC memo, which had been signed by now; right? I'm	20	paragraph is discussing the 1983 mouse study; correct?
21	pretty sure. That represented OPP's position, but there	21	A. Correct.
22	had been no action taken at the EPA level of whether EPA	22	Q. And at the bottom of this paragraph, the
23	management accepted that OPP decision.	23	document states that, "Therefore, glyphosate was not
24	So it's a little it's confusing, and I	24	considered to be carcinogenic in this study"; correct?
25	assure you for someone that's spent as much time with	25	A. Correct.
	2		
	Page 203		Page 205
	the record as I have, it's sometimes hard to tell what's	1	Q. So EPA's final determination was that
2	the record as I have, it's sometimes hard to tell what's an EPA decision or what's an OPP decision.	2	Q. So EPA's final determination was that glyphosate was not carcinogenic in this study; correct?
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	Page 206		Page 208
	the chronic toxicology database, and then there's been	1	A. Correct.
2	all of the documents relative to the rereview of	2	Q. It also conducted a review of the animal data;
3	glyphosate that started in, what, 2008 culminating in		correct?
4	the 2016 report being the fullest expression, and at	4	A. Well, yeah. It reviews the same studies that
	multiple times along the way, the EPA expressed its		it reviewed, and going back to the 1993 reregistration
6	judgment based on the entire animal bioassay data set.		
7	And I really don't believe there was anything	7	Q. So in the December 2017 report, EPA had
8	new or different said about the 1983 Bio/dynamic study		
9	from 1991 on. I mean, that was it. That was the end of	9	conclusions about the animal data, and still reached the
10	the story on that study.	10	determination that glyphosate is not likely
11	Q. So since 1991, EPA's position on the 1983 study	11	
	has been consistent; correct?	12	A. OPP had reviewed, not all of the EPA, because
13	A. Has been consistent, yes.		8
14	Q. And consistently found that it did not show		evaluation.
15	carcinogenicity; correct?	15	Q. OPP had reviewed the IARC determination, IARC's
16	A. Well, they that's what they determined in	16	conclusions about the animal data, and reached the
17	1991, and they never revisited that decision or changed	17	determination that glyphosate is not likely to be
18		18	carcinogenic; correct? A. EPA reached that conclusion based on a
19	Q. So your position is that during the current	19	
20	rereview process, culminating in what you said was the	20	weight-of-the-evidence assessment relative to the five
21	2016 EPA report, but that's been updated since in	21	categories in EPA's classification system. You know, there's certainly there are
22	December 2017, that EPA didn't revisit that study? A. No. No. I don't think they did at all, yeah.	23	differences in the evaluation of the animal data between
24	Q. What's your basis for saying that they haven't	24	EPA and IARC, but certainly not as significant as the
	looked back at the study?		differences in assessment of the genotox database.
	isoked blek at the study.		differences in assessment of the genotox database.
	Page 207		Page 209
	C		-
1	A. They had a final determination of that study,	1	Q. Sir, if you could turn to page 85 of Exhibit 6,
2	A. They had a final determination of that study, and I don't think they they spent a lot of time	2	Q. Sir, if you could turn to page 85 of Exhibit 6, which is EPA's
2	A. They had a final determination of that study, and I don't think they they spent a lot of time reassessing their evaluation of many of the old animal	2 3	Q. Sir, if you could turn to page 85 of Exhibit 6, which is EPA'sA. Yep. Yep.
2 3 4	A. They had a final determination of that study, and I don't think they they spent a lot of time reassessing their evaluation of many of the old animal bioassays. So I think to the extent that they spent	2 3 4	 Q. Sir, if you could turn to page 85 of Exhibit 6, which is EPA's A. Yep. Yep. Q 2016
2 3 4 5	A. They had a final determination of that study, and I don't think they they spent a lot of time reassessing their evaluation of many of the old animal bioassays. So I think to the extent that they spent time assessing new studies, it would be the more recent	2 3 4 5	 Q. Sir, if you could turn to page 85 of Exhibit 6, which is EPA's A. Yep. Yep. Q 2016 A. 85?
2 3 4 5 6	A. They had a final determination of that study, and I don't think they they spent a lot of time reassessing their evaluation of many of the old animal bioassays. So I think to the extent that they spent time assessing new studies, it would be the more recent ones.	2 3 4 5 6	 Q. Sir, if you could turn to page 85 of Exhibit 6, which is EPA's A. Yep. Yep. Q 2016 A. 85? Q. 85, yes.
2 3 4 5 6 7	 A. They had a final determination of that study, and I don't think they they spent a lot of time reassessing their evaluation of many of the old animal bioassays. So I think to the extent that they spent time assessing new studies, it would be the more recent ones. Q. Did EPA I'm sorry. Strike that. 	2 3 4 5 6 7	 Q. Sir, if you could turn to page 85 of Exhibit 6, which is EPA's A. Yep. Yep. Q 2016 A. 85? Q. 85, yes. A. Okay. I'm there.
2 3 4 5 6 7 8	 A. They had a final determination of that study, and I don't think they they spent a lot of time reassessing their evaluation of many of the old animal bioassays. So I think to the extent that they spent time assessing new studies, it would be the more recent ones. Q. Did EPA I'm sorry. Strike that. Did IARC consider the 1990 1983 mouse study? 	2 3 4 5 6 7 8	 Q. Sir, if you could turn to page 85 of Exhibit 6, which is EPA's A. Yep. Yep. Q 2016 A. 85? Q. 85, yes. A. Okay. I'm there. Q. This is OPP's discussion of the 1983 mouse
2 3 4 5 6 7 8 9	 A. They had a final determination of that study, and I don't think they they spent a lot of time reassessing their evaluation of many of the old animal bioassays. So I think to the extent that they spent time assessing new studies, it would be the more recent ones. Q. Did EPA I'm sorry. Strike that. Did IARC consider the 1990 1983 mouse study? A. Yes. 	2 3 4 5 6 7 8 9	 Q. Sir, if you could turn to page 85 of Exhibit 6, which is EPA's A. Yep. Yep. Q 2016 A. 85? Q. 85, yes. A. Okay. I'm there. Q. This is OPP's discussion of the 1983 mouse study; correct?
2 3 4 5 6 7 8 9 10	 A. They had a final determination of that study, and I don't think they they spent a lot of time reassessing their evaluation of many of the old animal bioassays. So I think to the extent that they spent time assessing new studies, it would be the more recent ones. Q. Did EPA I'm sorry. Strike that. Did IARC consider the 1990 1983 mouse study? A. Yes. Q. Did it reach any determination about that 	2 3 4 5 6 7 8 9 10	 Q. Sir, if you could turn to page 85 of Exhibit 6, which is EPA's A. Yep. Yep. Q 2016 A. 85? Q. 85, yes. A. Okay. I'm there. Q. This is OPP's discussion of the 1983 mouse study; correct? A. Correct.
2 3 4 5 6 7 8 9 10 11	 A. They had a final determination of that study, and I don't think they they spent a lot of time reassessing their evaluation of many of the old animal bioassays. So I think to the extent that they spent time assessing new studies, it would be the more recent ones. Q. Did EPA I'm sorry. Strike that. Did IARC consider the 1990 1983 mouse study? A. Yes. Q. Did it reach any determination about that study? 	2 3 4 5 6 7 8 9 10 11	 Q. Sir, if you could turn to page 85 of Exhibit 6, which is EPA's A. Yep. Yep. Q 2016 A. 85? Q. 85, yes. A. Okay. I'm there. Q. This is OPP's discussion of the 1983 mouse study; correct? A. Correct. Q. And this is their OPP's 2016 report which
2 3 4 5 6 7 8 9 10 11 12	 A. They had a final determination of that study, and I don't think they they spent a lot of time reassessing their evaluation of many of the old animal bioassays. So I think to the extent that they spent time assessing new studies, it would be the more recent ones. Q. Did EPA I'm sorry. Strike that. Did IARC consider the 1990 1983 mouse study? A. Yes. Q. Did it reach any determination about that study? A. Yes. 	2 3 4 5 6 7 8 9 10 11 12	 Q. Sir, if you could turn to page 85 of Exhibit 6, which is EPA's A. Yep. Yep. Q 2016 A. 85? Q. 85, yes. A. Okay. I'm there. Q. This is OPP's discussion of the 1983 mouse study; correct? A. Correct. Q. And this is their OPP's 2016 report which follows the IARC evaluation; correct?
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	Page 210	Page 212
1	Q. So in 2016, EPA concluded, based on a	1 correct?
2	weight-of-evidence evaluation of this study, that the	2 A. Correct.
3	tumors were not treatment related; correct?	3 Q. The SAP also recommended that there be a data
4	A. That that was EPA's position then and I	4 call-in for further studies in rats and/or mice
5	believe it's still to this day.	5 A. Correct.
6	Q. I'd like to go to you can put that down now.	6 Q to clarify unresolved questions; correct?
7	Thanks.	7 A. Yes.
8	A. I was going to say, no more than three	8 Q. And you testified previously that Monsanto did
9	documents open at once.	9 conduct a new study in rats; correct?
10	Q. Yes, I understand.	10 A. There was a new study ongoing at the time of
11	A. Or we'll get hopelessly	11 this meeting.
12	Q. Let's turn to page 78 of your report.	12 Q. But since 1986, Monsanto did strike that.
13	A. Are we done with this '93 R.E.D.?	13After the 1986 SAP, Monsanto did complete a new
14	Q. Yes. You can put that away.	14 study in rats; correct?
15	A. Okay. Where are we going in my report?	15 A. They completed it and submitted it to the
16	Q. So you don't even need to turn there, actually.	16 agency, yes.
17	In your report you discuss the 1986 scientific	17 Q. And that's the Stout and Rucker study?
18	advisory panel; correct?	18 A. I don't recall the author's name.
19	A. Yes.	19 (Exhibit 16 marked for identification.)
20	Q. Which reviewed the 1983 mouse study?	20 Q. (BY MR. FAYNE:) We've marked as Exhibit 16 an
21	A. Correct.	21 EPA memorandum dated October 30th, 1991, subject "Second
22	Q. What is a science advisory panel?	22 peer review of glyphosate."
23	A. It's an ad hoc group of scientists convened by	23 You've seen this document before; correct?
24	EPA to provide scientific and technical guidance to the	24 A. Yes, sir.
25	agency on issues that arise in the course of regulating	25 Q. This document is titled "Second peer review."
	Page 211	Page 213
1	Page 211 pesticides.	Page 213 ¹ The first was the March 1985 memo you mentioned
1	pesticides.	¹ The first was the March 1985 memo you mentioned
2	pesticides. Q. And an S-A-P, or science advisory panel, is	
2 3	pesticides.	1 The first was the March 1985 memo you mentioned2 previously; correct?
2 3	pesticides. Q. And an S-A-P, or science advisory panel, is composed of scientists who are independent of EPA;	 The first was the March 1985 memo you mentioned previously; correct? A. Correct.
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	Page 214		Page 216
1	A. Correct.	1	reviewed the 1993 mouse study, and concluded that
2		2	
3	Q. Can you turn to page 5. There's a study, Stout and Rucker study dated 1990, "Chronic study of		humans; correct?
4	glyphosate administered in feed to albino rats";	4	A. That's correct.
	correct?	5	Q. Your report details at length the events from
6	A. Correct.		1983 related to this 1983 mouse study up through the end
7	Q. And that's the that's the 1990 study that	1	of the 1980s; correct?
8	Monsanto completed; correct?	8	A. Correct.
9	A. Correct. That probably was underway in 1986.	9	Q. You don't mention that Monsanto performed a
10	Q. So this shows that EPA reviewed the 1990 rat		study in rats, do you?
	study; correct?	11	A. No.
12	A. Right. I assume this is a summary of the	12	Q. Why not?
	review.	13	A. There was no no disagreement or controversy
14	Q. And if you turn to page 13		over the interpretation of that study. The EPA
15	A. I'm there.	15	
16	Q. Number 3, that's the 1983 mouse study; correct?		the Monsanto scientists in the contract lab.
17	A. I'm sorry, page?	17	Q. In forming your opinions in this case, did you
18	Q. Sorry. On page 13, where it says	18	consider the fact that Monsanto performed the rat study
19	A. Okay. Yep.	19	as requested by the SAP?
20	Q "Hogan, GK"	20	A. I believe the rat study was started before the
21	A. Yes.	21	
22	Q. "1983."	22	Q. But the SAP stated that there should be a new
23	A. Yes. Yes.	23	study
24	Q. So EPA also reviewed the 1983 mouse study in	24	A. Right.
25	this 1991 peer review; correct?	25	Q in mice and/or rats; correct?
	-		
	Page 215		Page 217
1	A. It was included, yes.	1	
2	Q. And they state on page 14, if you turn to	2	Q. And Monsanto performed the study in rats;
	page 14, the third paragraph states, "Committee's		correct?
	interpretation. In their meeting of June 26, 1991, the	4	A. Yeah. It was ongoing and they completed it,
	health effects carcinogenicity peer-review committee		yeah.
	concluded that despite the fact that the incidence of	6	Q. Did you consider that fact in forming your
	renal tubular neoplasm in the high-dose males exceeded that of historical controls, the biological significance	7	opinions in this case?
8	that of historical controls the biological significance		A 37
9		8	A. Yes.
110	of the findings was questionable."	9	Q. But you didn't consider it important enough to
10	of the findings was questionable." Did I read that correctly?	9 10	Q. But you didn't consider it important enough to include in your expert report; is that correct?
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1	D 010		D 220
	Page 218	1	Page 220
	issued the registration standard document; correct?		only three, so it would be 1,200 male mice.
2	A. Yes.	2	Q. So the study that Dr. Dykstra was requesting
3	Q. And in that document, EPA concluded that the		would be 1,200 male mice?
	available data were not sufficient to adequately assess	4	A. Correct.
	whether glyphosate was carcinogenic; correct?	5	Q. How many mice are typically included in a
6	A. Correct.	6	long-term cancer study?
7	Q. And EPA requested a repeat of the mouse study	7	A. Well, in the original 1983 Bio/dynamic study,
	with a larger number of animals in each test group;		there was 50 mice in each of the control and three
9	correct?		treatment groups, so 200 male mice, 200 female mice, so
10	A. And a rat study.	10	a total of 400.
11	Q. And a but sure. But I'm speaking	11	Q. So this would be three times as large as the
12	specifically about the mouse study. Correct?	12	typical study?
13	A. Okay. All right.	13	A. Yes.
14	Q. And you testified that they did do the rat	14	Q. Are you aware of any pesticide company that has
15	study; correct?	15	performed a long-term cancer study using that many mice?
16	A. Right. Right.	16	A. No, not off the top of my head. It would be a
17	Q. Monsanto formally requested a waiver, as I	17	very it would be a very unusual study, a very
18	understand it from your report; correct?	18	powerful study that, if there were indeed a problem with
19	A. Uh-huh.	19	renal tube adenomas, that study would have resolved it.
20	Q. If you could say "yes" or "no."	20	Q. And you've referred to this as a special
21	A. Yes.	21	study
22	Q. And it's not uncommon for a registrant to	22	A. Yeah.
23	submit a waiver request; correct?	23	Q because it's unusual; correct?
24	A. No. It happens.	24	A. Right.
25	Q. And in some cases, the agency agrees; in some	25	Q. And you discuss this memo from Dr. Dykstra in
	Page 219		Page 221
	cases it might not agree. Correct?		1988 because it's, in your view, an important piece of
2	A. That's also correct.		the regulatory history; fair?
3	Q. In paragraph actually, strike that.	3	A. Correct.
4	Voluated describe a memo that was prepared by		
	You also describe a memo that was prepared by	4	Q. So if I understand your report correctly, EPA
	Dr. William Dykstra; correct? And this is the sorry.	4 5	Q. So if I understand your report correctly, EPA requested that Monsanto perform this more powerful mouse
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	Daga 222		Daga 224
1	Page 222	1	Page 224
	mice.		Q. 368.
2	And OPP and Dykstra felt that the way to	2	A. Okay. I'm there.
	resolve this very sharp difference of opinion with the	3	Q. You state that, "The 1986 glyphosate RS
	three EPA pathologists that read all the slides saying	_	document states on page 2: 'Failure to comply with
5	there's no renal tubular adenoma in control mouse 102A,	5	
	and all of the Monsanto-hired pathologists saying that	6	
7	there was one of the two had to be wrong.	7	
8	And I think it's fair to say that there was	8	Suspend in the case of failure to submit data."
9	never agreement between OPP and Monsanto about whether	9	Did I read that correctly?
10	there was in fact a renal tubular adenoma in control	10	A. Yes, you did.
11	mouse 102A, so EPA designed this very powerful study	11	Q. You just testified that Monsanto never
12	5 1		1
13	evidence of kidney tumors, the debate over the 1983		the 1986 registration center document; correct?
14	study would have ended at that point.	14	A. Yes.
15	MR. FAYNE: I'm going to move to strike that	15	Q. But EPA never issued a notice of intent to
	answer as non-responsive.	16	cancel the glyphosate registration because of Monsanto's
17	MR. KRISTAL: I think it was completely	17	failure to do so; correct?
18	responsive, and I'd also remind counsel we're beating	18	A. That is correct.
19	dead mice at this point, too.	19	Q. EPA never issued a notice of intent to suspend;
20	Dr. Benbrook has been asked ad nauseam about	20	correct?
21		21	A. Correct.
22	same it's the same report and you're repeating a lot	22	Q. And one more question. If I could turn you
23	of the same questions.	23	back to the 1991 peer review. And I apologize, I
24	MR. FAYNE: This is a new report, and I'm	24	don't which exhibit is that?
25	walking through it paragraph by paragraph.	25	A. Exhibit 16.
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	Page 226		Page 228
1	resectioning of the slides; correct?	1	A. Yes, sir.
2	A. The resectioning of the slides was proposed	2	Q. Do you know whether EPA ever requested that
3	originally by Monsanto in their ongoing back-and-forth,	3	Monsanto repeat the mouse study after 1991?
4	and ultimately EPA decided to request the resectioning	4	A. I don't believe they did.
5	of slides because that you know, they had to unthaw	5	Q. So you stated earlier that at this time, but to
6	the kidneys and slice them again, so it required a	6	your knowledge EPA has not requested that repeat study
7	request to do that.	7	since 1989; correct?
8	MR. FAYNE: 17.	8	A. Correct.
9	(Exhibit 17 marked for identification.)	9	Q. You state in your report that Monsanto's
10	Q. (BY MR. FAYNE:) I've marked as Exhibit 17 a	10	refusal to conduct that new repeat mouse study altered
11	June 1989 memo from EPA prepared by William Dykstra,	11	the regulatory history; correct?
12	subject, "Glyphosate EPA Registration Numbers 524-318	12	A. Yes.
13	and 524-333 - Historical Control Data For Mouse Kidney	13	Q. You're aware that since the early '90s, there
14	Tumors."	14	have been four new studies in mice; correct?
15	Do you see that?	15	A. Yes.
16	A. Yes.	16	Q. Do you know whether any of those studies found
17	Q. Have you seen this document before?	17	compound related kidney tumors like those reported in
18	A. Yes.	18	the 1983 study?
19	Q. This is a memo from Dr. Dykstra dated	19	A. I'd have to refresh my memory, but there's a
20	June 1989, which is approximately one year after the	20	number of tumors identified in the mice and rat studies
21	Dykstra memo we discussed previously; correct?	21	that where there's difference of opinion between
22	A. Correct.	22	different entities. IARC read them differently in some
23	Q. And if you turn to page 2 of the document, the	23	respects than EPA. There were, I think, maybe 14
24	last paragraph before the section that says	24	different tumors that are where the results are subject
25	"Background."	25	to controversy, depending upon who's reviewing the
	Page 227		Page 229
1	A. Okay.		study.
2	A. Okay.Q. It states that TB and "TB" stands for the	2	study. Q. But you're not aware of any of those studies
2 3	A. Okay.Q. It states that TB and "TB" stands for the toxicology branch; correct?	2 3	study. Q. But you're not aware of any of those studies that found compound related kidney tumors; correct?
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	Dama 220		Dec. 222
1	Page 230	1	Page 232
1	MR. KRISTAL: Asked and answered.		Q. I'll represent to you that it's 13.
2	A. Yeah, it's glyphosate technical based on	2	A. Okay.
3	expected levels of exposure to the general public.	3	Q. And each of the members signed; correct?
4	MR. FAYNE: Is now a good time for a break?	4	A. Yes.
5	THE WITNESS: I'm ready for a bio.	5	Q. None of them indicated they did not concur in
6	VIDEOGRAPHER: Off the record at 2:57 p.m.		the decision; correct?
7	(A brief recess was had.)	7	A. That's correct.
8	(Exhibit 18 marked for identification.)	8	Q. So that means all 13 members of the committee
9	VIDEOGRAPHER: Back on the record at 3:19 p.m.	9	6,1
10	Q. (BY MR. FAYNE:) Dr. Benbrook, I'm marking as		likely to be carcinogenic to humans?
11	r r	11	A. Yes.
	Cancer Assessment Review Committee.	12	Q. And I'll note that you testified in August that
13	A. Okay.		you thought that maybe not all 13 had concurred, but you
14	Q. You've seen this document before; correct?		now agree that you were not remembering correctly in
15	A. Yes.		August; correct?
16	Q. The Cancer Assessment Review Committee, or	16	A. Perhaps we were addressing the 1991. You know,
17			I don't I don't know what part of the deposition
18	specific expertise in cancer classification; agree?	18	
19	A. That's correct.	19	Q. Sure.
20	Q. The CARC must review all food-use pesticides	20	A. But I could have gotten one wrong.
	for their carcinogenic potential; correct?	21	Q. But we agree today that
22	A. I'm not sure that all pesticides come before	22	A. Today.
	CARC, but they certainly all of the ones where there	23	Q all 13 concur?
24	are technical issues that need to be resolved.	24	A. We are on the same page, sir.
25	Q. And the CARC recommends a cancer classification	25	Q. Great. So turning to now I'm in your
	Page 231		Page 233
1	Page 231 that ultimately OPP decides whether or not to adopt;	1	Page 233 IA you can put that aside.
	-	1 2	-
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 that ultimately OPP decides whether or not to adopt; correct? A. That's correct. Q. If you turn to page 10. A. I'm there. Q. The middle paragraph before the bullet states, "In accordance with the 2005 Guidelines For Carcinogenic Risk Assessment, based on the weight-of-evidence, glyphosate is classified as 'Not Likely to Be Carcinogenic to Humans." Did I read that correctly? A. Yes, you did. Q. So in 2015, as we discussed, the Cancer Assessment Review Committee classified glyphosate as non-carcinogenic; correct? A. Yes. Q. If you turn to page 6, it lists the committee members in attendance. A. I remember seeing the list. Yes, I see it. Q. And it shows that there were 13 members of the committee; correct? A. Yes. Q. And 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 IA you can put that aside. A. Back to the report? Q. Back to the report. Paragraph 387. It's on page 86. A. I'm there. 387? Q. You know what? I'm sorry. Could we actually pull out the CARC report again? I'm sorry. A. This last one? Q. Yes. A. Okay. Q. So you've testified in your report about Jess Rowland; correct? A. Correct. Q. And you suggested or you assert in your report that Jess Rowland's involvement with the CARC calls into question its objectivity. Is that a fair characterization? A. Not exactly. The record shows some unusually close and inappropriate communications between Jess Rowland and Monsanto on the general topic of OPP's evaluation of glyphosate oncogenicity. Q. You state in paragraph 463 if you want to turn there in your report.

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1	_	1	-
	A. 460. Going the wrong direction. Okay. I'm		2015 was unanimous, as we discussed; correct?
	there.	2	A. Correct.
3	Q. The second sentence of that paragraph you	3	Q. Now let's go to paragraph 387 of your report.
4	state, "Considering Dr. Rowland" I think that should	4	A. 387?
5	probably be "Dr. Rowland's relationship with Monsanto,	5	Q. Yes. And just to orient you, this is
6	it raises, in my opinion, serious questions about the	6	A. Okay. I'm there.
7	objectivity of that report and the scientific basis of	7	Q. And to orient you, this is the last paragraph
8	EPA's determination that glyphosate is not likely to	8	of your discussion of the 1983 mouse study.
9	pose cancer risk."	9	A. Oh, okay. Thank you.
10	Do you see that?	10	Q. You state, "In my opinion Monsanto should have
11	A. Correct.	11	conducted a special study requested by EPA in response
12	Q. And you're referring to the CARC assessment?	12	to the agency's request, and in light of the company's
13	A. Correct.	13	commitment to product safety. I also conclude that, and
14	Q. Do you have any reason to believe that the 12	14	in the interim, Monsanto should have added an
15	other members of this committee were biased in any way?	15	oncogenicity warning to Roundup labels as well as in
16	A. I found very curious and suggestive an e-mail	16	glyphosate-based herbicide chemical safety data sheets
17	that Jess Rowland sent to one of the Monsanto people	17	and other information developed for physicians and
18	where the topic of discussion was Monsanto had contacted	18	poison control centers."
19	Rowland to see if Rowland and EPA needed any support	19	I omitted a parenthetical, but otherwise did I
20	from Monsanto in sticking to its position that	20	read that correctly?
21	glyphosate poses no oncogenic risk after the release of	21	A. Yes, you did.
22	the IARC classification as a probable human carcinogen.	22	Q. So you state that Monsanto should have added an
23	And in the response from Rowland to I	23	oncogenicity warning in the interim; correct?
24	believe it was Serdy. I can't remember. We can no	24	A. Correct.
25	doubt find the MONGLY document, if you want. Rowland	25	Q. And by "in the interim," do you mean the period
	Page 235		Page 237
	says that he's in good shape on epi and exposure, there	1	of time between the 1986 registration standard document
	says that he's in good shape on epi and exposure, there is an issue about a carcinoma in I believe it was the	1 2	of time between the 1986 registration standard document and Monsanto's completion of the repeat mouse study?
2 3	says that he's in good shape on epi and exposure, there is an issue about a carcinoma in I believe it was the Syngenta oncogenic feeding study, and he says he says	2 3	of time between the 1986 registration standard document and Monsanto's completion of the repeat mouse study? A. Well, I think that a prudent company would have
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	Page 238		Page 240
1	6.71	1	Monsanto did not have a legal obligation to add a cancer
2	A. As codified in the 1985 CARC meeting.	2	warning to its label, but it had a moral one; is that
3	Q. So by that logic, would you agree that today	3	fair?
	Monsanto has no obligation to put a cancer warning on	4	MR. KRISTAL: Objection. Obviously calls for a
5	its products based on EPA's classification of glyphosate	5	legal conclusion.
6	as Category E, non-carcinogenic?	6	A. I didn't say "legal obligation." I said an
7	MR. KRISTAL: Objection. Because Dr. Benbrook	7	5
8	is not being offered on causation, and, therefore,	8	EPA imposes. In fact, I do believe that Monsanto at
9	there's additional information in the present time other	9	some point had a legal obligation under OSHA regs
10	than EPA's classification.	10	to to accurately include the IARC classification on
11	MR. FAYNE: You can answer.	11	OSHA chemical safety data sheets or whatever they call
12	THE WITNESS: Would you please repeat the	12	them.
13	question?	13	Q. Let me let me be more clear, then. You do
14	Q. (BY MR. FAYNE:) Sure. By that logic, would	14	not believe that Monsanto has a legal obligation under
15	you agree that Monsanto has no obligation today to place	15	FIFRA to put a cancer warning on its product labels;
16	a cancer warning on its glyphosate-based herbicides in	16	correct?
17	light of EPA's classification of glyphosate as not	17	MR. KRISTAL: Objection. Calls for a legal
18	likely to be carcinogenic?	18	
19	A. No, I don't agree. There's much more	19	A. I would agree that there that there was no
20		20	OPP requirement or statement of an obligation during
21	International Agency For Research on Cancer that	21	this post-1991 period to add a cancer warning on the
22	glyphosate and glyphosate-based herbicides are probable	22	labels.
23		23	Q. You would agree that the 1986 registration
24	the justification for a clear cancer warning on labels	24	I B
25	and material safety data sheets, et cetera.	25	glyphosate-based herbicides a requirement to place a
	Page 239		Page 241
1	Page 239 Q. Would you agree that prior to the IARC	1	Page 241 cancer warning on the product labels; correct?
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	it's your personal opinion that they have a moral or	1	change in the surfactant, either the mix of surfactants
2	ethical obligation to put a cancer warning on their	2	or the concentration of surfactants in the formulated
3	products; correct?	3	Filler
4	A. Correct.	4	Q. Tou offente and 2010 2111 off report
5	MR. KRISTAL: Object to the form of the	5	
6	question.	6	A. Yes, sir.
7	Q. You've reviewed several labels on	7	Q. So you're aware that in that report, EPA
8	glyphosate-based products; correct?	8	
9	A. Yes.	9	A. Yes.
10	Q. And those labels apply to the formulated	10	Q. EPA is certainly aware that IARC found
11	product; correct?	11	871 · · · · · · · · · · · · · · · · · · ·
12	A. Correct.	12	correct?
13	Q. As we've been talking about today, you're aware	13	A. Correct.
14	that since 1991 there have been numerous approvals of	14	Q. That's true of the 2015 CARC report, as well;
15	glyphosate-based formulations; correct?	15	they also discuss the IARC determination. Correct?
16	A. Yes.	16	A. I guess it had come out a couple of months
17	Q. Every time that Monsanto changes a	17	before.
18	glyphosate-based formulation, it has to submit an	18	Q. If you could pull up the 2016 OPP report. It's
19	application to EPA to get approval of that new	19	Exhibit 6.
20	formulation; correct?	20	A. Yep. Got it.
21	A. A label amendment, yes. Correct.	21	Q. If you turn to page 13.
22	Q. That application for a new formulation would,	22	A. I'm there.
23	of course, include any EPA-required studies on the new	23	Q. The third paragraph of that section states
24	glyphosate-based formulation; correct?	24	that, "Recently, several international agencies have
25	A. If EPA felt that such a study was necessary.	25	evaluated the carcinogenic potential of glyphosate," and
	$\mathbf{D}_{2} \approx 242$		Doct 245
1	Page 243	1	Page 245
1	Q. You agree that each new formulation requires,		then they go on to discuss a number of bodies that have
2	Q. You agree that each new formulation requires, at a minimum, the acute tox six-pack of studies of the	2	then they go on to discuss a number of bodies that have reviewed glyphosate; correct?
2 3	Q. You agree that each new formulation requires, at a minimum, the acute tox six-pack of studies of the product; correct?	2 3	then they go on to discuss a number of bodies that havereviewed glyphosate; correct?A. Yes, sir.
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			bendrook, m.b.
	Page 246		Page 248
1	being. Thank you.		which they make a judgment of whether they're going to
2	In other words, EPA doesn't have its head in	2	challenge anything about a particular label or not.
3	the sand; correct? It's aware of what's going on	3	Q. So under FIFRA, EPA is required to make the
4	throughout the world with glyphosate?	4	determination that the label is consistent with the
5	MR. KRISTAL: Objection to the form of the	5	statute and with EPA's regulations that went into the
6	question.	6	statute; correct?
7	A. If what you're asking is was the EPA aware of	7	A. Correct.
8	the conclusion reached by the IARC Working Group,	8	Q. You testified previously that in order to
9	absolutely, yes, they were very aware of that.	9	change the labeling for a registered pesticide, the
10	Q. And in its 2016 review, EPA considered the	10	registrant must submit it to EPA to review and approve;
11	conclusion of the IARC Working Group; correct?	11	correct?
12	A. Yeah, both OPP and ORD, and other parts of EPA,	12	MR. KRISTAL: For about the tenth time.
13	no doubt, paid attention to that.	13	THE WITNESS: Yes.
14	Q. And in its 2016 review, OPP also considered the	14	Q. You also testified that EPA has to approve all
15	reviews by other regulators around the world; correct?	15	labeling and label changes?
16	A. I don't think they placed much weight on	16	MR. KRISTAL: Don't answer that question. Now
17	Canada's review and EFSA's review. They were aware of	17	you're not only repeating questions that have been asked
18	it. I think without a doubt, the evaluation of the US	18	at every other deposition, you're repeating questions
19	EPA on the matter of glyphosate oncogenicity was the	19	that you asked earlier today.
20	most thorough and generally led the pack or was deferred	20	THE WITNESS: We
21	to by most other regulatory agencies.	21	MR. KRISTAL: Don't answer that question.
22	So I would say the only the only other	22	THE WITNESS: I'm not going to, but
23	assessment that would probably correctly be identified	23	MR. FAYNE: You're instructing the witness not
24	as comparably in depth would be the ones conducted by	24	to answer that question?
25	the Germans as part of the European reregistration of	25	MR. KRISTAL: Yes, because it's now in the
	Page 247		Page 249
1	glyphosate, the BfR review.		realm of harassment. We're six hours in and you're
1 2	glyphosate, the BfR review. Q. And the BfR review which informed the EFSA	2	realm of harassment. We're six hours in and you're repeating questions you asked today, and you're
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	Page 250		Page 252
1	to approve the labels on glyphosate-based formulations	1	You agree that there are now many registrants
2	for sale and use in the United States; correct?	2	of glyphosate-based products besides Monsanto; correct?
3	A. That's correct.	3	A. Yes.
4	Q. And it has approved labels that strike that.	4	Q. And agree that as of today EPA has never
5	Despite EPA's awareness and review of the IARC	5	required any registrant of a glyphosate-based project to
6	monograph finding that glyphosate-based herbicides are a	6	conduct a long-term feeding study using a formulated
7	probable carcinogen, the agency has continued to approve	7	product?
8	labels that do not include a warning about	8	A. That is correct.
9	carcinogenicity; correct?	9	Q. Are you aware strike that.
10	A. Correct.	10	Are you aware of anyone that has conducted a
11	Q. As of today, EPA continues to find strike	11	long-term cancer feeding study with a glyphosate-based
12	that.	12	herbicide?
13	As of today, EPA continues to classify	13	A. Yes.
14	glyphosate as not likely to be carcinogenic to humans,	14	Q. Who is that?
15	notwithstanding IARC's finding; correct?	15	A. A team led by Seralini in France.
16	A. Based on typical and expected exposures for the	16	Q. Just like to turn your attention to page 6 of
17	general population, yes.		your report. Actually, it starts on page 5. And it's
18	Q. So EPA's approval of the product labels on		paragraph 7(b).
19	glyphosate-based formulations is consistent with its	19	A. 7(b)?
20	determination that glyphosate is not likely to be	20	Q. Yes.
	carcinogenic to humans; correct?	21	Okay. You state, "Despite knowledge of the
22	A. Yes.		differences in toxicity and risks arising from exposures
23	MR. FAYNE: Can we go off the record for just		to formulated Roundup in contrast to pure glyphosate,
24	one minute?		Monsanto has not carried out critical long-term cancer
25	VIDEOGRAPHER: Off the record at 3:48 p.m.	1	feeding studies with Roundup. Nor has anyone else."
	VIDEOGRAFIER. On the record at 3.46 p.m.	25	recum studies with Koundup. Not has anyone else.
	Page 251		Page 253
1	Page 251 (A brief recess was had.)	1	Page 253 Do you see that?
1 2	-	1 2	-
	(A brief recess was had.)		Do you see that?
2 3	(A brief recess was had.) VIDEOGRAPHER: Back on the record at 3:48 p.m.	2 3	Do you see that? A. Yes.
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	today, are you aware of any pesticide manufacturer that		and selling the most heavily applied pesticide in the
	has conducted a long-term feeding study on a formulated		history of the world.
3	product?	3	This was not just an average pesticide. This
4	A. No.		is the most heavily used pesticide in history. There
5	Q. Would you agree then that it's not industry	5	are more people exposed to it at a higher level than
6	standard to conduct a long-term feeding study on a	6	probably any pesticide ever. Monsanto was fully aware
7	formulated product?	7	
8	MR. KRISTAL: Object.	8	statement and commitment to product stewardship and the
9	A. Oh, most most surely. It's not industry	9	safety of its users, and given the enormous amount of
10	standard.	10	money that they were making off the product, they surely
11	Q. Going back to paragraph 87, which is the one I	11	could have justified doing a chronic mouse and a chronic
	read previously.	12	rat study on one of their major formulations.
13	A. It's going to be about page 25 or something?	13	And had they done that, and if the studies had
14	Q. 26, yeah.		been clean, then we would not be sitting here. However,
15	A. 26. I'm there, sir.	15	if they did the studies and the results were
16	Q. So I had read the preceding sentence, that you	16	substantially different than the 14 animal bioassays
17	state in your opinion Monsanto should have carried out a	17	conducted with technical glyphosate, the
18	long-term feeding study; correct?	18	regulatory as I said in one place in the report, the
19	A. On a formulated	19	regulatory history of Roundup would have been changed.
20	Q. On a formulated product.	20	It's impossible to predict exactly how, but it would
21	A. Major formulated product, correct.		have been changed.
22	Q. You then say, "It also does not relieve	22	Q. We've discussed that there are other
23	Monsanto of its obligation, as the dominant manufacturer of glyphosate-based herbicides, to carry out such a	23	manufacturers of glyphosate-based herbicides; correct?A. Now there are.
25	study in the interest of assuring its formulated	25	Q. Now there are. And you state in your report
	study in the interest of assuring its formulated		Q. Now there are. This you state in your report
	Page 255		Page 257
	C		-
1	products are as safe as the company had been claiming	1	that Monsanto, as the dominant manufacturer of
2	products are as safe as the company had been claiming since the late 1970s."	2	that Monsanto, as the dominant manufacturer of glyphosate-based herbicides, had an obligation to
2	products are as safe as the company had been claiming since the late 1970s." Did I read that correctly?	2 3	that Monsanto, as the dominant manufacturer of glyphosate-based herbicides, had an obligation to conduct this study; correct?
2 3 4	products are as safe as the company had been claiming since the late 1970s." Did I read that correctly? A. Yes.	2 3 4	that Monsanto, as the dominant manufacturer of glyphosate-based herbicides, had an obligation to conduct this study; correct?A. Right. Correct.
2 3 4 5	products are as safe as the company had been claiming since the late 1970s." Did I read that correctly? A. Yes. Q. What is the source of Monsanto's obligation to	2 3 4 5	that Monsanto, as the dominant manufacturer of glyphosate-based herbicides, had an obligation to conduct this study; correct?A. Right. Correct.Q. Is it your position that other manufacturers of
2 3 4 5 6	products are as safe as the company had been claiming since the late 1970s." Did I read that correctly? A. Yes. Q. What is the source of Monsanto's obligation to carry out this study?	2 3 4 5 6	that Monsanto, as the dominant manufacturer of glyphosate-based herbicides, had an obligation to conduct this study; correct?A. Right. Correct.Q. Is it your position that other manufacturers of glyphosate-based herbicides don't have an obligation to
2 3 4 5 6 7	 products are as safe as the company had been claiming since the late 1970s." Did I read that correctly? A. Yes. Q. What is the source of Monsanto's obligation to carry out this study? A. Their obligation under FIFRA to assure that the 	2 3 4 5 6 7	that Monsanto, as the dominant manufacturer of glyphosate-based herbicides, had an obligation to conduct this study; correct?A. Right. Correct.Q. Is it your position that other manufacturers of glyphosate-based herbicides don't have an obligation to conduct such a study?
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	products are as safe as the company had been claiming since the late 1970s." Did I read that correctly? A. Yes. Q. What is the source of Monsanto's obligation to carry out this study? A. Their obligation under FIFRA to assure that the pesticide products that it obtains, labels through the EPA process, and sells to users do not pose, in general, a risk of unreasonable adverse effects, of which certainly non-Hodgkin's lymphoma would classify as an adverse effect in humans. It is it is the responsibility of registrants under the statute to assure that their products do not pose excessive risk, i.e., an unreasonable adverse effect on man. And when a company has in its possession information that suggests that such risks may actually be occurring, and especially when a registrant has acknowledged that there are valid reasons to expect that their formulated products are more toxic than their pure technical active ingredient, that combination of facts is what leads me to my opinion that Monsanto had an	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 that Monsanto, as the dominant manufacturer of glyphosate-based herbicides, had an obligation to conduct this study; correct? A. Right. Correct. Q. Is it your position that other manufacturers of glyphosate-based herbicides don't have an obligation to conduct such a study? A. Certainly not until Monsanto has done it. Monsanto still is the dominant single company in the world. It's true that there's roughly half of the global supply of glyphosate is manufactured in China, but it's many companies that do it. So in terms of the economic importance of glyphosate-based herbicides to a company, there is no question but that Monsanto is the major global player. Q. So the obligation you're referring to turns in part on a company's market share; is that a fair characterization? A. Absolutely. And in all pesticide regulation, the company that typically first registers a pesticide active ingredient, a company that has a proprietary position in it, a company that has the most extensive set of labels, it is looked to by the rest of the industry as bearing

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		те	
	Page 258		Page 260
1	database is complete and that any questions that	1	Everybody knows that that would be the case.
1	regulators have, any questions that the medical		But that there's no reason why those range-finding
	community might have, are being dealt with.		studies couldn't be done and then the registrant would
4	Q. You've never designed a long-term cancer study;		pick typically two intervening dose levels between zero,
5	correct?	5	or the control group, and the maximum tolerated dose of
6	A. Oh, my gosh. Are we back to that?	6	animals fed the formulated product.
7	Q. We're back to that.	7	Q. (BY MR. FAYNE:) I'd like to turn now to your
8	MR. KRISTAL: Yeah. Don't answer that.	8	discussion of ghost-writing, which starts on page 111.
9	THE WITNESS: Yes.	9	In paragraph 499 of your report let me know
10	MR. ESFANDIARY: You've asked it four, five	10	once you're there.
11	times now.	11	A. I'm there.
12	MR. FAYNE: I'm just setting up the next line	12	Q. You provide a definition of "ghost-authorship"
13	of questioning.	13	or "ghost-writing"; correct?
14	MR. KRISTAL: It doesn't matter what you're	14	A. Yes.
15	setting up.	15	Q. And you state that, "Ghost-writing
16	Q. (BY MR. FAYNE:) Okay. As someone that's never	16	refers" "refers to three types of contributions to a
17	designed a long-term cancer study, how can you strike	17	written document by a person not listed as the author or
18	that.	18	among the co-authors of a document"; correct?
19	As someone who has never designed a long-term	19	A. Yes.
20	cancer study, do you know whether it's feasible to	20	Q. "Those three types of contributions include
21	conduct such a study on a formulated product?	21	producing the first and original draft of a document or
22	A. Absolutely it's feasible and it should have	22	sections of a document"; correct?
23	been done.	23	A. Correct.
24	Q. What is your what are you relying upon to	24	Q. The second is "revising a document or its
25	assert that it's absolutely feasible?	25	sections in a way that adds to or alters the substantive
1	Page 259	1	Page 261
1	A. There's no no scientific, chemical,		content of the document"; correct?
2	A. There's no no scientific, chemical, biological, physiological reason why a group of mice or	2	content of the document"; correct? A. Yes.
2 3	A. There's no no scientific, chemical, biological, physiological reason why a group of mice or rats could not be treated with or exposed to the	2 3	content of the document"; correct?A. Yes.Q. And the third is "providing information and
2 3 4	A. There's no no scientific, chemical, biological, physiological reason why a group of mice or rats could not be treated with or exposed to the formulated product as opposed to the technical active	2 3 4	content of the document"; correct?A. Yes.Q. And the third is "providing information and text, either as original writing or text derived from
2 3 4 5	A. There's no no scientific, chemical, biological, physiological reason why a group of mice or rats could not be treated with or exposed to the formulated product as opposed to the technical active ingredient. There's absolutely no reason why a study	2 3 4 5	content of the document"; correct?A. Yes.Q. And the third is "providing information and text, either as original writing or text derived from the existing document, that is used by a listed author
2 3 4 5 6	A. There's no no scientific, chemical, biological, physiological reason why a group of mice or rats could not be treated with or exposed to the formulated product as opposed to the technical active ingredient. There's absolutely no reason why a study couldn't be conducted in exactly the same way.	2 3 4 5 6	content of the document"; correct?A. Yes.Q. And the third is "providing information and text, either as original writing or text derived from the existing document, that is used by a listed author or co-author or document editor to alter the content of
2 3 4 5 6 7	 A. There's no no scientific, chemical, biological, physiological reason why a group of mice or rats could not be treated with or exposed to the formulated product as opposed to the technical active ingredient. There's absolutely no reason why a study couldn't be conducted in exactly the same way. Q. It's possible that administering the 	2 3 4 5 6 7	content of the document"; correct?A. Yes.Q. And the third is "providing information and text, either as original writing or text derived from the existing document, that is used by a listed author or co-author or document editor to alter the content of a document and/or respond to comments made during peer
2 3 4 5 6 7 8	 A. There's no no scientific, chemical, biological, physiological reason why a group of mice or rats could not be treated with or exposed to the formulated product as opposed to the technical active ingredient. There's absolutely no reason why a study couldn't be conducted in exactly the same way. Q. It's possible that administering the surfactants in formulated products could make the mice 	2 3 4 5 6 7 8	content of the document"; correct?A. Yes.Q. And the third is "providing information and text, either as original writing or text derived from the existing document, that is used by a listed author or co-author or document editor to alter the content of a document and/or respond to comments made during peer review"; correct?
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$\mathsf{Case 3:16} - \mathsf{md}_{027741} + \mathsf{Ven}_{12} + \mathsf{posternent}_{2419} + \mathsf{egilegent}_{103} + \mathsf{posterne}_{103} + \mathsf{posterne}_{1$

	Dec. 2(2		Dama 264
	Page 262		Page 264
	there's that there's any real disagreement that these	1	A. Actually, I've had to review them
2	are examples of ghost-writing.		for because of my co-authorship of multiple papers
3	Q. You derived your definition of ghost-writing in	3	over the last four, five years. Most of the nutrition
4	part on the way Monsanto described ghost-writing in	4	papers that I've written, the journals rely on the ICMJE
5	internal e-mails. Is that accurate?	5	guidelines.
6	A. No. No. No.	6	Q. So if you look at the paragraph after the one
7	I mean, I before I became involved in this	7	we just read, it restates the ICMJE guidelines as they
8	case, I knew what ghost-writing was. Anybody that	8	existed in 2001; correct?
9	publishes in scientific journals understands the	9	A. Yes.
10	importance of accurate authorship.	10	Q. And they state that, "Authorship credit should
11	The COPE guidelines, which is one of the	11	be based only on: (1) substantial contributions to
12	standard set of professional guidelines for scientists,	12	conception and design, or acquisition of data, or
13	discuss appropriate attribution of authorship. They	13	analysis and interpretation of data; (2) drafting the
14	describe accurate declarations of conflicts of interest.	14	article or revising it critically for important
15	They describe when and how funding should be disclosed.	15	intellectual content; and (3) final approval of the
16	And, you know, I don't think there's really any	16	version to be published."
17	serious disagreement or ambiguity about each of these	17	Did I read that correctly?
18	three examples of ghost-writing that I've noted in my	18	A. Yes.
19	report.	19	Q. And the next sentence states, "Conditions (1),
20	MR. FAYNE: I'm marking as Exhibit 19 an	20	(2) and (3) must all be met"; correct?
21	article from COPE, which you just referred to in your	21	A. Yes.
22	testimony, about authorship disputes.	22	Q. So under these guidelines, in order to be
23	(Exhibit 19 marked for identification.)	23	listed as an author someone must meet all three
24	Q. (BY MR. FAYNE:) Have you seen this document	24	criteria; correct?
	before?	25	A. Yes.
			A. 105.
	Page 263		Page 265
	1 450 200		1 age 205
1	A. Yes.	1	Q. Would you agree that these three criteria are
1 2	-	1 2	-
	A. Yes.		Q. Would you agree that these three criteria are
2 3	A. Yes.Q. If you go to the third paragraph, it states	2	Q. Would you agree that these three criteria are different than the ones that you set forth in
2 3 4	A. Yes.Q. If you go to the third paragraph, it states that, "Listing the authors tells readers who did the	2 3	Q. Would you agree that these three criteria are different than the ones that you set forth in paragraph 499 of your report?
2 3 4	A. Yes.Q. If you go to the third paragraph, it states that, "Listing the authors tells readers who did the work and to ensure that the right people get the credit	2 3 4	Q. Would you agree that these three criteria are different than the ones that you set forth in paragraph 499 of your report?A. Modestly.
2 3 4 5	A. Yes.Q. If you go to the third paragraph, it states that, "Listing the authors tells readers who did the work and to ensure that the right people get the credit and take responsibility for the research. Although journal editors do not always agree among themselves on	2 3 4 5	Q. Would you agree that these three criteria are different than the ones that you set forth in paragraph 499 of your report?A. Modestly.Q. Modestly?
2 3 4 5 6	A. Yes.Q. If you go to the third paragraph, it states that, "Listing the authors tells readers who did the work and to ensure that the right people get the credit and take responsibility for the research. Although journal editors do not always agree among themselves on	2 3 4 5 6 7	Q. Would you agree that these three criteria are different than the ones that you set forth in paragraph 499 of your report?A. Modestly.Q. Modestly?A. Yeah.
2 3 4 5 6 7	 A. Yes. Q. If you go to the third paragraph, it states that, "Listing the authors tells readers who did the work and to ensure that the right people get the credit and take responsibility for the research. Although journal editors do not always agree among themselves on what constitutes authorship, many of them subscribe to 	2 3 4 5 6 7	 Q. Would you agree that these three criteria are different than the ones that you set forth in paragraph 499 of your report? A. Modestly. Q. Modestly? A. Yeah. Q. In your report, you state that, "Providing
2 3 4 5 6 7 8	 A. Yes. Q. If you go to the third paragraph, it states that, "Listing the authors tells readers who did the work and to ensure that the right people get the credit and take responsibility for the research. Although journal editors do not always agree among themselves on what constitutes authorship, many of them subscribe to the guidance from the International Committee of Medical 	2 3 4 5 6 7 8	 Q. Would you agree that these three criteria are different than the ones that you set forth in paragraph 499 of your report? A. Modestly. Q. Modestly? A. Yeah. Q. In your report, you state that, "Providing information and text that is used by a listed author or
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	Page 266		Page 268
1	responsive, but we don't have to decide that right now.	1	paper, you know, it has to be left up to the team.
2	Nor do we have the authority to decide it.	2	I can I can imagine that there are
3	MR. FAYNE: Sure.	3	
4	I'll repeat the question and we can all decide	4	refinement of the clarity of passages, some some
5	whether that answer was responsive.		teams may say, Let's add so-and-so as a co-author.
6	MR. KRISTAL: Sure.	6	
7	Q. (BY MR. FAYNE:) The question was, you state in	7	
8	your report that providing information and text that is	8	Q. Understood, but my question is more aimed at
	used by a listed author or a co-author without being	9	when is it required in order to comply with ethical
	listed as an author constitutes ghost-writing; correct?	10	guidelines, not can you do it.
11	A. Correct.	11	A. Okay. All right. Fair enough.
12	Q. Somebody could provide information or text	12	Q. So my question is, at what point is it
13	that's used in a study or report without having final		required
	approval of the study; correct?	14	A. I already answered that.
	A. Presumably, yes.		Q. I under
15		15	
16	Q. Somebody could produce the first draft of a	16	A. When the editing changes the substantive
17	document without having final approval of the document;	17	
18	correct?	18	Q. By "substantive content," do you mean the
19	A. Yes.	19	conclusions of the document, of the study authors?
20	Q. Someone could revise a document without having	20	A. No, I mean the substantive content of it, as
	final approval of the document; correct?	21	
22	A. Yes. What's your point?		sentence.
23	MR. KRISTAL: You don't have to ask your job	23	Do we really need to argue about what
	is not to ask, just to answer.		substantive content is?
25	THE WITNESS: Jerry, you're being very nice,	25	Q. You tell me.
	Page 267		Page 269
1	Page 267 but I'm getting to the end of my rope on some of this.	1	Page 269 MR. ESFANDIARY: Well, Bill Heydens thought he
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	Page 270		Page 272
1	published in the journal Critical Review in Toxicology;	1	A. Well, several of them. There was multiple
2	correct?	2	back-and-forths between Heydens and authors of the
3	A. Correct.	3	Critical Review of Toxicology special issue. You know,
4	Q. And then there's the Critical Reviews in	4	and as I said, there's extensive records that I've
5	Toxicology special issue on glyphosate risks; correct?	5	reviewed where Heydens was the Monsanto official who was
6	A. Correct.	6	most frequently involved in inserting his personal and
7	Q. So I'm going to focus on those four, if that's	7	presumably Monsanto corporate views in these journal
8	okay with you.	8	articles as they were in the various stages of
9	A. Sure.	9	preparation.
10	MR. KRISTAL: Would you do it if it wasn't okay	10	Q. Is it your testimony that the authors of any of
11	with him?	11	these articles believed that the science showed
12	MR. FAYNE: Yes.	12	glyphosate to be carcinogenic?
13	Q. (BY MR. FAYNE:) You're aware, I imagine, that	13	A. I've never put that question to any of them
14	each of these journals have authorship guidelines;	14	directly so I have no idea whether they hold that view.
15	correct?	15	The papers in which their names appear does not state
16	A. Yes.	16	that view.
17	Q. Did you review the authorship guidelines in	17	Q. And you're not testifying that they initially
18	forming your opinions in this case?	18	stated that view and then Monsanto somehow convinced
19	A. I don't remember which ones I did and didn't.	19	them to reverse course and say that glyphosate was not
20	I had reviewed the Critical Review of Toxicology because	20	carcinogenic; correct?
21	I I had thought about submitting a paper to it	21	A. I'm not aware of that occurring.
22	myself.	22	Q. A little earlier you testified that, I believe,
23	I don't remember which ones I specifically	23	that it was well known by Monsanto that its formulated
24	reviewed, but, you know, I'm fairly certain there's not	24	product was more toxic than glyphosate alone; correct?
25	a lot of difference across them, but they are generally	25	A. Correct.
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1	Page 271	1	Page 273
	consistent with the COPE and the International Committee	1	Q. You would agree with me that toxic does not
2	consistent with the COPE and the International Committee on of Medical Journal Editors' guidelines.	2	Q. You would agree with me that toxic does not necessarily equal carcinogenic; correct?
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	pesticide that is carcinogenic. A pesticide that is	1	A. Correct. But then they also did their own
	carcinogenic is by definition toxic because	2	assessment of the science in an effort to fully
3	carcinogenicity is a component of or falls within the		implement the requirements of Proposition 65.
	realm of toxic responses.	4	Q. What assessment was that? Is there is there
5	Q. But a pesticide that is toxic is not	5	a name for it? I'm not sure what you're referring to,
	necessarily carcinogenic?	6	so I'm
7	A. Correct.	7	A. Under Proposition 65, the OEHHA is responsible
8	Q. So the fact that something is toxic does not	8	for coming up with a NSRL. I can't remember exactly
9	mean that it's carcinogenic; correct?	9	what the acronym refers to, but it's a level of exposure
10	A. Not necessarily.	10	below which there would not be a requirement for
11	Q. In your May deposition you were asked about a	11	<i>S i i i</i>
12	number of foreign regulatory determinations; do you	12	Q. That's a level of exposure below which the
13	recall that?	1	state agency does not believe there's any risk of
14	A. EFSA, Canada, yes, I do remember that.	14	cancer; correct?
15	Q. So you acknowledge that a number of foreign	15	A. And any need to so label under Prop 65.
16	regulators, including Canada, EFSA, New Zealand,	16	Q. Right. So no need to label, and that's the
17	Australia, that they've classified glyphosate as	17	
18	non-carcinogenic; correct?	18	cancer; correct?
19	A. We've discussed that, yes.	19	A. I don't think it would be accurate to say "no
20	Q. And that's all of those since the IARC		risk of cancer," but it is accurate to say it's a
21	determination in 2015; correct?	1	threshold below which the the agency would not
22	A. Yes. Some of them were before, some of them	22	require the listing of chemicals under Proposition 65.
23	after, and I don't believe any of them have changed.	23	Q. Other than OEHHA in California, would you agree
24	Q. Are you aware of any foreign regulatory body	1	that as of today IARC is the only scientific or
25	that has conducted a risk assessment of glyphosate since	25	regulatory entity in the world that has reviewed the
	Page 275		Page 277
1	the IARC classification and concluded that glyphosate is	1	evidence and concluded that glyphosate is a probable
	carcinogenic?	1	carcinogen?
3	A. Not that not a reassessment that's resulted	3	A. Certainly there's no other one that's done an
	in a final conclusion, no.		extensive and independent review as IARC has, no.
5	Q. So you would agree that as of today IARC is the	5	Q. You state in paragraph 13 of your report that,
	only scientific or regulatory entity in the world that	6	"Monsanto has failed to meet its obligation by failing
	has reviewed the full evidence on glyphosate and	7	
	concluded that glyphosate is a probable carcinogen;	8	and, most recently, carcinogenicity."
9	correct?	9	A. Correct.
10	A. Well, I think the Office of Environmental	10	Q. Are you aware of any pesticide manufacturer
11		11	that has placed a warning on its label for oncogenicity?
12	reached that conclusion.	12	A. Yes.
13	Q. And you're it's your understanding that I	13	Q. You've seen pesticide labels that include a
	believe you're referring to OEHHA in California?	14	
15	A. Yeah, OEHHA.	15	A. Yes.
16	Q. That they conducted a risk assessment and	16	Q. Which labels are those?
17	-	17	A. Some of the 2,4-D labels have a warning.
18	A. Yes.	18	The I think Monsanto put a warning on Alachlor labels
19	Q. And they reviewed studies and data in reaching	19	at the at one point in the history of Alachlor.
20	that conclusion?	20	I think there probably was a warning on the EDB
	A. Yes. And, as you know, their regulations also	21	labels, ethylene dibromide, and, you know, I'd have to
21		1	
21		22	go through the list of oncogenic active ingredients and
21	require them to follow IARC determinations.	22 23	go through the list of oncogenic active ingredients and look at look at the various labels, but I have not
21 22 23	require them to follow IARC determinations. Q. Right. So OEHHA was required by statute to		look at look at the various labels, but I have not
21 22 23 24	require them to follow IARC determinations.	23	

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	pesticide label that includes a warning for	1	discussions, media discussions, advertising material,
2	genotoxicity?	2	promotional meetings.
3	A. Let's see. I'd have to I'd have to do an	3	It sometimes actual employees of Monsanto
	assessment of different different active ingredients	1	make those statements. Certainly William Heydens has
5	to answer that. I didn't I didn't make an effort to	1	made the statement multiple times. And I believe that
6	do that in preparation for this.	1	it was part of Monsanto's effort to protect the freedom
7	Q. So sitting here today, you're not aware of any	1	to operate for glyphosate-based herbicides that they
8	pesticide manufacturer that has added a genotoxicity	8	wanted people to believe that glyphosate-based
9	warning on its pesticide product label; correct?	9	herbicides are non-toxic and they did very little to
10	A. Correct.	10	discourage people who were saying that it was also safe
11	Q. If you go to paragraph 20 of your report.	11	enough to drink.
12	A. Page 13?	12	Q. Your testimony is that Monsanto employees and
13	Q. Sounds right.	13	j i i i i i i i i i i i i i i i i i i i
14	A. I'm there.	14	enough to drink. Did I understand you correctly?
15	Q. Have you ever seen sorry, before we get to	15	A. No. I said "non-toxic."
16	paragraph 20, have you ever seen a pesticide label that	16	Q. And I'm asking I apologize. I might have
17	includes a warning based on an association found in	17	8
18	epidemiological study, an association between the	18	it's safe enough to drink.
19	product or its ingredients and cancer?	19	Are you aware of any Monsanto employee or any
20	A. I think I certainly know that there's some	20	agent of Monsanto that's made that statement?
21	chemical safety data sheets that do that, and there's	21	A. In the record in writing, I'd have to think
22	some of the OSHA sheets that do that, but on a on an		about that.
23	end-use product label, I'd have to, again, do an	23	Q. So sitting here today, you're not aware of
24	assessment.	24	
25	Q. So sitting here today, you're not aware of any	25	litigation that makes that statement; correct?
	D 070	-	D 001
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1	pesticide product label that includes a warning that's	1	A. From a Monsanto employee.
	C	1 2	_
	pesticide product label that includes a warning that's based on an association found in an epidemiological		A. From a Monsanto employee.Q. Are you aware of it being said by someone other
2	pesticide product label that includes a warning that's based on an association found in an epidemiological	2 3	A. From a Monsanto employee.Q. Are you aware of it being said by someone other
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2 3 4 5	pesticide product label that includes a warning that'sbased on an association found in an epidemiologicalstudy; correct?A. Solely on that, no.	2 3 4	A. From a Monsanto employee.Q. Are you aware of it being said by someone other than a Monsanto employee in the discovery record in this case?
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Page 28 VIDEOGRAPHIER: Off the record at 4:30 m. 1 Is this the International Code of Conduct on the 2 (A brief recess was had.) 2 3 VIDEOGRAPHIER: Back on the record at 4:30 m. 2 4 EXAMINATION 4 A. Correct. 5 W MR. KRISTAL: 5 6 God afternoon, Dr. Benbrook, It's 5 7 Jerry Kristal on behaft of the plaintiffs. Ive got a 5 Q. And d here documents establish stewardship 10 Q. First of all, jush housekcepting. III mark as 10 Methanded to counsel for Monsanto towards the beginning 11 Schift 20 marked for identification.) 14 (Stablit 20 marked for identification.) 15 Q. Trun of going to ask you questions about it, 15 O ocertain things. 10 Do you generally remember that line of 20 Now I'm going to stavaly and and the lef ledge." 14 O Are you familiar with various international 22 So for parposes of recordleaver my thesite 15 O cortain things. 10 Now ware asked by Monsmo counsel about both 15 O cortain things. 20 A rey you		conriachterar char	-	,
2 (A brief receives was had.) 2 distribution and use of pesticides that you just 3 VIDEOGRAPHER: Back on the record at 4:39 µm. 3 referred to as the earlier version of this? 5 BY MR. KRISTAL: 5 Q. And through the years, from 1985 through 2014, 6 Q. Good afernoon, Dr. Benbrook. It's 5 Q. And through the years, from 1985 through 2014, 7 Jerry Kristal on behalf of the plaintiffs. I've got a 8 about four times, maybe five. 9 A. Yes, sir. 9 Q. And other decournents establish stewardship 10 documents. So Let me first hand my laptop to coursel to 13 of the deposition. 13 So Let me first hand my laptop to coursel to 14 (Exhibit 2D marked for identification.) 14 So Let me first hand my laptop to coursel to 14 oronge generative with warious international 20 Nor Want to scril down. I'm soging to ask you qeestions about it, 19 cornerat ethics and sources of Monsanto's obligations 10 13 19 cornerat ethics and sources of Monsanto's obligations 14 14 10 orog generative with wario		Page 282		Page 284
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	Dage 286		Doco 299
	Page 286		Page 288
	by Responsible Care Global Charter."	1	A. 2014.
2		2	Q. Okay. So we will print and mark as Exhibit 24
3		3	the opened mined (endown
	number of versions of the international code in	4	And if you would look at Exhibit 21.
5	different languages?	5	A. 21.
6	A. Yes, they do.	6	Q. Thank you. And I'll have a couple of questions
7	Q. All right. And have you gone through this	7	about this.
8	exercise of actually opening this on the Monsanto	8	Does this document establish pesticide industry
9	website?	9	what are called stewardship standards?
10	A. But only the English version.	10	A. Yes.
11	Q. Right. Right.	11	Q. And if you would turn to page 8.
12	A. And you're going to get this document. This	12	A. The Article 3, Pesticide Management?
13	is I'm almost sure this is the most recent one, 2014.	13	Q. Yes.
14	Q. That's a 2014, is it?	14	Does this document, in terms of its general
15	A. Yeah.	15	format, lay out both government responsibilities for
16	MR. FAYNE: Can I see the document?	16	pesticide management and pesticide industry
17	MR. KRISTAL: It's hopefully opening. Tell you	17	responsibilities?
18	what, why don't we go off the video record. When it	18	MR. FAYNE: Object to form.
19	completely opens, I'll show it to you, then we'll go	19	A. Yes.
20	back on the video record. Is that all right?	20	Q. Okay. And on page 8, Section 3.2, under
21	VIDEOGRAPHER: Off the record at 4:46 p.m.	21	"Pesticide management," reads, "Pesticide industries
22	(A brief recess was had.)	22	should adhere to the provisions of this code as a
23	VIDEOGRAPHER: Back on the record at 4:48 p.m.	23	· · · · · · · · · · · · · · · · · · ·
24	Q. (BY MR. KRISTAL:) We are going to mark, after		advertising of pesticides."
	we print out the linked International Code of Conduct	25	
25	we print out the miked international Code of Conduct	25	Do you see that?
		-	
	Page 287		Page 289
1	Page 287 that the Monsanto website takes it to, and what version	1	Page 289 A. Yes.
	C	1	-
	that the Monsanto website takes it to, and what version		A. Yes.
2	that the Monsanto website takes it to, and what version is that?	2	A. Yes.Q. And that is a part of this stewardship for the
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2 3 4	that the Monsanto website takes it to, and what version is that? MR. FAYNE: Object. Q. What year?	2 3 4 5	 A. Yes. Q. And that is a part of this stewardship for the pesticide industry? A. Code of conduct, stewardship, yes. Q. And in the lower right-hand corner I'm
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	Page 290		Page 292
1	Q. (BY MR. KRISTAL:) Okay. The next page, 3.5.6	1	Q. And is this part of the reason that part of
2	under "Pesticide industry responsibilities," "Retain an	2	the basis for your opinion that Monsanto should have
3	active interest in following their products through	3	included an oncogenicity warning on its label as of the
4	their entire lifecycle, keeping track of major uses and	4	time of the 1983 mouse study?
5	the occurrence of any problems arising from the use of	5	MR. FAYNE: Object to form.
6	their products as a basis for determining the need for	6	A. As of the time of the CARC review in 1985,
7	changes in labeling, directions for use, packaging,	7	correct.
8	formulation, or product availability."	8	Q. And is it also part of the basis of your
9	Is that also part of this industry standard	9	opinion in terms of Monsanto's obligation to conduct the
10	adopted by Monsanto?	10	chronic feeding study with glyphosate-based herbicides?
11	A. Yes, it is.	11	MR. FAYNE: Object to form.
12	MR. FAYNE: Objection. Same objection.	12	A. Yes.
13	Q. Under Section 3.11 of the pesticide management	13	Q. And if you look at Section 3.4.4, "Retain an
14	standard, "Governments, pesticide industry and the	14	
15	application equipment industry should develop and	15	ultimate consumer, keeping track of major uses and the
16	promote the use of pesticide application methods and	16	occurrence of any problems arising in the actual use of
17	equipment that minimize the risk from pesticides to	17	their products as a basis for determining the need for
18	human and animal health and/or the environment and that	18	changes in labeling, use directions, packaging,
19	optimize efficiency and cost effectiveness, and should	19	formulation, or product availability."
20	conduct periodic practical training in such activities."	20	Is that part of this standard and part of the
21	Is that another part of this standard that is	21	basis of your opinion in terms of Monsanto's
22	linked to the Monsanto website?	22	obligations?
23	MR. FAYNE: Same objection.	23	MR. FAYNE: Object to form.
24	A. Yes, it is.	24	A. Yes, it is.
25	Q. All right. And if you turn to page I'm	25	Q. And under 3.4.3, "A manufacturer should
			Q. This under 5.1.5, Trimanulaetarer should
	Page 291		Page 293
1	sorry, to Exhibit 22 now, the 1985 standard, does this		provide, with each package of pesticide, information and
1	sorry, to Exhibit 22 now, the 1985 standard, does this also set out if you'd look, for example, at		provide, with each package of pesticide, information and instructions in a form and language adequate to ensure
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2	sorry, to Exhibit 22 now, the 1985 standard, does this also set out if you'd look, for example, at Section 3.3 government standards that should be A. What page are we on?	2	provide, with each package of pesticide, information and instructions in a form and language adequate to ensure safe and effective use." Is that also part of the basis of your opinion
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	Page 294		Page 296
1	MR. FAYNE: Object to form.		11 recommended studies he was proposing.
2	Q. In the under the section "Important 1985	2	Do you recall that line of questioning?
	label changes," the first bullet point in the left-hand	3	A. Yes.
4	column, "As mentioned earlier, the results of tests in	4	Q. And did you go through that exercise over
5	which laboratory animals were fed Alachlor daily	5	lunch?
6	throughout most of their lifetimes led to the additions	6	A. Yes.
7	of a warning statement on the label, 'The use of this	7	Q. Did Monsanto counsel then not ask you about
8	product may be hazardous to your health. This product	8	that?
9	contains Alachlor, which has been determined to cause	9	A. Correct.
10	tumors in laboratory animals."	10	Q. Okay. And were you also asked to look up two
11	Is that an oncogenicity warning?	11	of the studies that had been referenced in your report
12	A. Yes.	12	regarding genotoxicity and in vivo chromosomal damages?
13	Q. In this label change announcement from 1985, is	13	A. Correct.
14	there also another change that's being announced for the	14	Q. And did you do that?
15	products that are listed here to "Wear goggles or face	15	A. Yes, I did.
16	shield, rubber gloves, long trousers, long sleeve shirt	16	Q. Over the lunch break?
17	or jacket of tightly woven material, along with boots	17	A. Yeah. Yes.
18	high enough to cover ankles when transferring and mixing	18	Q. And were you asked about that by Monsanto
19	and when adjusting, repairing or cleaning equipment.	19	counsel?
20	Wear rubber boots when pouring from open containers or	20	A. No.
21	when re-entry is made into fields where the product has	21	Q. I'd like you to try to find Exhibit 11 that was
22	been applied through center pivot irrigation system and	22	given to you earlier today by Monsanto counsel.
23	the field is still wet."	23	MR. FAYNE: Which exhibit is that?
24	MR. FAYNE: Object to form.	24	MR. KRISTAL: It's the electronic code of
25	Q. Is that something Monsanto was putting on the	25	federal regulations regarding recording requirements.
	Page 295		Page 297
1	Page 295 label for the products listed on the second page of	1	Page 297 THE WITNESS: Got it.
	-	1	-
2	label for the products listed on the second page of		THE WITNESS: Got it.
2 3	label for the products listed on the second page of this, similar to what EPA wanted Monsanto to put on the	2	THE WITNESS: Got it. MR. FAYNE: Could you give me one second?
2 3	label for the products listed on the second page of this, similar to what EPA wanted Monsanto to put on the Roundup label in terms of the worker protection	2 3	THE WITNESS: Got it. MR. FAYNE: Could you give me one second? MR. KRISTAL: Sure. Take your time.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 label for the products listed on the second page of this, similar to what EPA wanted Monsanto to put on the Roundup label in terms of the worker protection provisions? MR. FAYNE: Object to form. A. Yes, very very similar and essentially essentially the same time. This is 1985, and the glyphosate registration document was 1986. Q. And the new label specifies, in addition to what I just read, "Clothing which comes in contact with Lasso must be washed before reuse. Clothing or other materials which has become drenched with the concentrated pesticide must be disposed of in a sanitary landfill by incineration or, if allowed by state and local authorities, by burning. If burned, stay out of smoke." And is that similar to one of the worker protection provisions EPA had requested Monsanto put on the Roundup label regarding clothing which comes in contact and is drenched by Roundup? MR. FAYNE: Object to form. A. Its it's very similar, yes. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	THE WITNESS: Got it. MR. FAYNE: Could you give me one second? MR. KRISTAL: Sure. Take your time. MR. ESFANDIARY: You got it? MR. FAYNE: Yeah. Thank you. Q. (BY MR. KRISTAL:) You were asked about certain sections by counsel for Monsanto. Let me ask you about other sections. First of all, on the first page, Section 159.153 entitled "Definitions," do you see that? A. I see. I do. Q. If you would turn to the next page and look at the definition of "qualified expert." Do you see it there up top? A. I do. Q. Okay. "Qualified expert means one who by virtue of his or her knowledge, skill, experience, training or education could be qualified by a court as an expert to testify on issues related to the subject matter on which he or she renders a conclusion or opinion. Under Rule 702 of the Federal Rules of Evidence, a person may be qualified as an expert on a

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			es Belibrook, Ph.D.
	Page 298		Page 300
	has relevant expert credentials (e.g., a medical doctor	1	
2		2	
3	opinion on plant pathology, et cetera)."	3	C , F , F 0 - F
4	Do you see that?	4	
5	A. Yes, I do.		report for? Okay. I'm there.
6	Q. Would Dr. Parry fall under the definition of	6	Q. And you have a three-paragraph section entitled
7	qualified expert in the field of genotoxicity?	7	
8	MR. FAYNE: Objection. Calls for a legal	8	A. Yes, I do.
9	conclusion.	9	Q. On paragraph 735, you wrote the following:
10	A. Yes, he certainly would.	10	8.1
11	Q. And if you turn to page 3 of 14, Section 159.158.	11	I
13		12	
14	A. I'm there.		Monsanto] are reminded that FIFRA Section $6(a)(2)$
15	Q. And that section is entitled "What information must be submitted?" is it not?	15	requires them to submit factual information concerning possible unreasonable adverse effects of the pesticide
16			
17	A. Correct.Q. And it reads, Section A, "General. Information	16 17	at any time they become aware of such information, including interim or preliminary results of studies if
18	Q. And it reads, Section A, General. Information which is reportable under this part must be submitted if	18	
19	the registrant possesses or receives the information and	19	
20	the information is relevant to the assessment of the	20	
21	risks or benefits of one or more specific pesticide	21	Did the TNO study results that were provided to
22	registrations currently or formerly held by the		
23	registrant.		definition?
24	"Information relevant to the assessment of the	24	MR. FAYNE: Objection. Calls for a legal
	risk or benefits also includes conclusions or opinions		conclusion.
	Page 299		Page 301
	rendered by a person who meets any of the following: (1)	1	
	who was employed or retained directly or indirectly by	2	C
	the registrant and was likely to receive such		opinion that they had to have been submitted to EPA?
	information; (2) from whom the registrant requested the		
	opinions or conclusions in question, and, (3), who is a quelified expert in Section 150 (152(b))		shed new light on the potential of adverse effects on
6	qualified expert in Section 159.153(b).		human beings exposed to glyphosate-based herbicides.
	Do you see that?	7	(Exhibit 26 was marked for identification.) Q. (BY MR. KRISTAL:) I'm marking as Exhibit 26 an
8	A. Yes, I do.	8	\mathbf{v} . (D I IVIK. KKISTAL:) I III IIIarKing as Exhibit 26 an
9	O Okay Would the Dr. Darmy reports that were	0	
	Q. Okay. Would the Dr. Parry reports that were	9	e-mail from M-A-R-T-E-N-S, dated
10	sent to Monsanto at their request on genotoxicity fall	10	e-mail from M-A-R-T-E-N-S, dated April 19th, 1999. And it is to a number of people,
11	sent to Monsanto at their request on genotoxicity fall under the category 159.158, information that must be	10 11	e-mail from M-A-R-T-E-N-S, dated April 19th, 1999. And it is to a number of people, including Larry Kier, K-I-E-R, William Heydens,
11 12	sent to Monsanto at their request on genotoxicity fall under the category 159.158, information that must be submitted to the EPA?	10 11 12	e-mail from M-A-R-T-E-N-S, dated April 19th, 1999. And it is to a number of people, including Larry Kier, K-I-E-R, William Heydens, H-E-D strike that H-E-Y-D-E-N-S, Donna Farmer, and
11 12 13	sent to Monsanto at their request on genotoxicity fall under the category 159.158, information that must be submitted to the EPA? MR. FAYNE: Objection. Calls for a legal	10 11 12 13	e-mail from M-A-R-T-E-N-S, dated April 19th, 1999. And it is to a number of people, including Larry Kier, K-I-E-R, William Heydens, H-E-D strike that H-E-Y-D-E-N-S, Donna Farmer, and others. And it's entitled "Meeting minutes 2/25."
11 12 13 14	sent to Monsanto at their request on genotoxicity fall under the category 159.158, information that must be submitted to the EPA? MR. FAYNE: Objection. Calls for a legal conclusion.	10 11 12 13 14	e-mail from M-A-R-T-E-N-S, dated April 19th, 1999. And it is to a number of people, including Larry Kier, K-I-E-R, William Heydens, H-E-D strike that H-E-Y-D-E-N-S, Donna Farmer, and others. And it's entitled "Meeting minutes 2/25." Do you see that?
11 12 13 14 15	sent to Monsanto at their request on genotoxicity fall under the category 159.158, information that must be submitted to the EPA? MR. FAYNE: Objection. Calls for a legal conclusion. A. Yes, it would. Or yes, they would.	10 11 12 13 14 15	e-mail from M-A-R-T-E-N-S, dated April 19th, 1999. And it is to a number of people, including Larry Kier, K-I-E-R, William Heydens, H-E-D strike that H-E-Y-D-E-N-S, Donna Farmer, and others. And it's entitled "Meeting minutes 2/25." Do you see that? A. I do.
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11 12 13 14 15 16 17 18 19	sent to Monsanto at their request on genotoxicity fall under the category 159.158, information that must be submitted to the EPA? MR. FAYNE: Objection. Calls for a legal conclusion. A. Yes, it would. Or yes, they would. Q. And would this also apply to the TNO reports and preliminary reports that Monsanto received regarding the dermal absorption experiments? MR. FAYNE: Objection. Calls for a legal	10 11 12 13 14 15 16 17 18 19	 e-mail from M-A-R-T-E-N-S, dated April 19th, 1999. And it is to a number of people, including Larry Kier, K-I-E-R, William Heydens, H-E-D strike that H-E-Y-D-E-N-S, Donna Farmer, and others. And it's entitled "Meeting minutes 2/25." Do you see that? A. I do. Q. Are you familiar with this document? A. Yes. Q. And is this a document that had been produced by Monsanto in this litigation?
11 12 13 14 15 16 17 18 19 20	sent to Monsanto at their request on genotoxicity fall under the category 159.158, information that must be submitted to the EPA? MR. FAYNE: Objection. Calls for a legal conclusion. A. Yes, it would. Or yes, they would. Q. And would this also apply to the TNO reports and preliminary reports that Monsanto received regarding the dermal absorption experiments? MR. FAYNE: Objection. Calls for a legal conclusion. Also vague as to what "this" is.	10 11 12 13 14 15 16 17 18 19 20	 e-mail from M-A-R-T-E-N-S, dated April 19th, 1999. And it is to a number of people, including Larry Kier, K-I-E-R, William Heydens, H-E-D strike that H-E-Y-D-E-N-S, Donna Farmer, and others. And it's entitled "Meeting minutes 2/25." Do you see that? A. I do. Q. Are you familiar with this document? A. Yes. Q. And is this a document that had been produced by Monsanto in this litigation? A. Yes.
11 12 13 14 15 16 17 18 19 20 21	 sent to Monsanto at their request on genotoxicity fall under the category 159.158, information that must be submitted to the EPA? MR. FAYNE: Objection. Calls for a legal conclusion. A. Yes, it would. Or yes, they would. Q. And would this also apply to the TNO reports and preliminary reports that Monsanto received regarding the dermal absorption experiments? MR. FAYNE: Objection. Calls for a legal conclusion. Also vague as to what "this" is. A. Yes, it would. 	10 11 12 13 14 15 16 17 18 19 20 21	 e-mail from M-A-R-T-E-N-S, dated April 19th, 1999. And it is to a number of people, including Larry Kier, K-I-E-R, William Heydens, H-E-D strike that H-E-Y-D-E-N-S, Donna Farmer, and others. And it's entitled "Meeting minutes 2/25." Do you see that? A. I do. Q. Are you familiar with this document? A. Yes. Q. And is this a document that had been produced by Monsanto in this litigation? A. Yes. Q. And Mathematican Writes, "Donna, thanks for
111 12 13 14 15 16 17 18 19 20 21 22	 sent to Monsanto at their request on genotoxicity fall under the category 159.158, information that must be submitted to the EPA? MR. FAYNE: Objection. Calls for a legal conclusion. A. Yes, it would. Or yes, they would. Q. And would this also apply to the TNO reports and preliminary reports that Monsanto received regarding the dermal absorption experiments? MR. FAYNE: Objection. Calls for a legal conclusion. Also vague as to what "this" is. A. Yes, it would. Q. Okay. If you would be kind enough to go to 	10 11 12 13 14 15 16 17 18 19 20 21 22	 e-mail from M-A-R-T-E-N-S, dated April 19th, 1999. And it is to a number of people, including Larry Kier, K-I-E-R, William Heydens, H-E-D strike that H-E-Y-D-E-N-S, Donna Farmer, and others. And it's entitled "Meeting minutes 2/25." Do you see that? A. I do. Q. Are you familiar with this document? A. Yes. Q. And is this a document that had been produced by Monsanto in this litigation? A. Yes. Q. And memory writes, "Donna, thanks for this. It accurately reflects the situation. Please
111 12 13 14 15 16 17 18 19 20 21 22 23	 sent to Monsanto at their request on genotoxicity fall under the category 159.158, information that must be submitted to the EPA? MR. FAYNE: Objection. Calls for a legal conclusion. A. Yes, it would. Or yes, they would. Q. And would this also apply to the TNO reports and preliminary reports that Monsanto received regarding the dermal absorption experiments? MR. FAYNE: Objection. Calls for a legal conclusion. Also vague as to what "this" is. A. Yes, it would. Q. Okay. If you would be kind enough to go to page 157 of your report, Exhibit 3, where you discuss 	10 11 12 13 14 15 16 17 18 19 20 21 22 23	 e-mail from M-A-R-T-E-N-S, dated April 19th, 1999. And it is to a number of people, including Larry Kier, K-I-E-R, William Heydens, H-E-D strike that H-E-Y-D-E-N-S, Donna Farmer, and others. And it's entitled "Meeting minutes 2/25." Do you see that? A. I do. Q. Are you familiar with this document? A. Yes. Q. And is this a document that had been produced by Monsanto in this litigation? A. Yes. Q. And Mathematical Writes, "Donna, thanks for this. It accurately reflects the situation. Please take note of the following update. I received from
111 12 13 14 15 16 17 18 19 20 21 22 23	 sent to Monsanto at their request on genotoxicity fall under the category 159.158, information that must be submitted to the EPA? MR. FAYNE: Objection. Calls for a legal conclusion. A. Yes, it would. Or yes, they would. Q. And would this also apply to the TNO reports and preliminary reports that Monsanto received regarding the dermal absorption experiments? MR. FAYNE: Objection. Calls for a legal conclusion. Also vague as to what "this" is. A. Yes, it would. Q. Okay. If you would be kind enough to go to 	10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 e-mail from M-A-R-T-E-N-S, dated April 19th, 1999. And it is to a number of people, including Larry Kier, K-I-E-R, William Heydens, H-E-D strike that H-E-Y-D-E-N-S, Donna Farmer, and others. And it's entitled "Meeting minutes 2/25." Do you see that? A. I do. Q. Are you familiar with this document? A. Yes. Q. And is this a document that had been produced by Monsanto in this litigation? A. Yes. Q. And Mathematical Writes, "Donna, thanks for this. It accurately reflects the situation. Please take note of the following update. I received from

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		TES BEIDLOOK, PIL.D.
	Page 302	Page 304
1	relevant reports and publications re mutagenicity of	1 limited and is not consistent with other better
2	glyphosate, its formulations, and the surfactants for	² conducted studies. In order to move Dr. Parry from his
3	which we have mutagenicity testing data."	³ position, we will need to provide him with the
4	Do you see that?	4 additional information as well as asking him to
5	A. I do.	⁵ critically evaluate the quality of all the data,
6	Q. So when you were asked earlier whether or not	⁶ including the open literature studies."
7	Monsanto had sent Dr. Parry all of the relevant genotox	7 Is that statement, "In order to move Dr. Parry
8	literature, does this indicate that in fact they had?	⁸ from his position," an example of Monsanto dealing with
9	MR. FAYNE: Objection.	9 adverse information obtained by an expert?
10	A. Yes, it does.	10 MR. FAYNE: Objection.
11	Q. And on the second page of the document, under	11 A. Yes.
12	"Section 4, Global Experts."	12 Q. With respect to TNO, if you'd go to the
13	A. I'm just looking down through	¹³ Exhibits 12 and 13. 12 is the final report. 13 is the
14	Q. Oh, okay.	14 draft TNO report.
15	A this list. On page 2?	15 A. 12 and 13?
16	Q. "Section 4, Global Experts."	16 Q. Yes, sir.
17	MR. FAYNE: Counsel, did was this	17 A. There's 12 and there's 13. Okay. I got them.
18	highlighting in the original document, or did you add	¹⁸ Q. First of all, did Monsanto choose TNO to
	it?	19 conduct the study, the dermal absorption study?
20	MR. ESFANDIARY: No, that's added.	20 A. Yes, they
21	MR. FAYNE: What's that?	21 MR. FAYNE: Objection.
22	MR. ESFANDIARY: That's added.	THE WITNESS: Yes, they did.
23	MR. FAYNE: That's added by you-all?	23 Q. (BY MR. KRISTAL:) And if you look on what's
24	MR. ESFANDIARY: Yeah.	²⁴ listed as page 8 of 41 of Exhibit 12, the final study.
25	MR. FAYNE: Okay. Just want to make sure.	25 A. 8 of 41?
	D 202	Daga 205
	Page 303	Page 305
1	THE WITNESS: I'm sorry, I'm missing where you	1 Q. Yes.
2	THE WITNESS: I'm sorry, I'm missing where you are.	 Q. Yes. A. Page 8? Yes.
2	THE WITNESS: I'm sorry, I'm missing where you are. Q. (BY MR. KRISTAL:) Sure. Page 2, Section	 Q. Yes. A. Page 8? Yes. Q. You're aware that Dr. F
2 3 4	THE WITNESS: I'm sorry, I'm missing where you are. Q. (BY MR. KRISTAL:) Sure. Page 2, Section A. So we're down into the Donna Farmer?	 Q. Yes. A. Page 8? Yes. Q. You're aware that Dr. F 4 B-R-O-E-C-K-A-E-R-T was the study monitor from
2 3 4 5	THE WITNESS: I'm sorry, I'm missing where you are. Q. (BY MR. KRISTAL:) Sure. Page 2, Section A. So we're down into the Donna Farmer? Q. Yes.	 Q. Yes. A. Page 8? Yes. Q. You're aware that Dr. F 4 B-R-O-E-C-K-A-E-R-T was the study monitor from 5 Monsanto?
2 3 4 5 6	 THE WITNESS: I'm sorry, I'm missing where you are. Q. (BY MR. KRISTAL:) Sure. Page 2, Section A. So we're down into the Donna Farmer? Q. Yes. A. All right. 	 Q. Yes. A. Page 8? Yes. Q. You're aware that Dr. F 4 B-R-O-E-C-K-A-E-R-T was the study monitor from 5 Monsanto? 6 A. Correct.
2 3 4 5	 THE WITNESS: I'm sorry, I'm missing where you are. Q. (BY MR. KRISTAL:) Sure. Page 2, Section A. So we're down into the Donna Farmer? Q. Yes. A. All right. Q. Let's state that. Donna Farmer had meeting 	 Q. Yes. A. Page 8? Yes. Q. You're aware that Dr. F 4 B-R-O-E-C-K-A-E-R-T was the study monitor from 5 Monsanto? A. Correct. Q. He's listed here as a study monitor?
2 3 4 5 6 7 8	 THE WITNESS: I'm sorry, I'm missing where you are. Q. (BY MR. KRISTAL:) Sure. Page 2, Section A. So we're down into the Donna Farmer? Q. Yes. A. All right. Q. Let's state that. Donna Farmer had meeting minutes dated 2/25 that she had prepared April 17th, 	 Q. Yes. A. Page 8? Yes. Q. You're aware that Dr. F 4 B-R-O-E-C-K-A-E-R-T was the study monitor from 5 Monsanto? A. Correct. Q. He's listed here as a study monitor? 8 MR. FAYNE: Objection. Lacks foundation.
2 3 4 5 6 7 8 9	 THE WITNESS: I'm sorry, I'm missing where you are. Q. (BY MR. KRISTAL:) Sure. Page 2, Section A. So we're down into the Donna Farmer? Q. Yes. A. All right. Q. Let's state that. Donna Farmer had meeting minutes dated 2/25 that she had prepared April 17th, 1999, which is on the second page of this e-mail; is 	 Q. Yes. A. Page 8? Yes. Q. You're aware that Dr. F 4 B-R-O-E-C-K-A-E-R-T was the study monitor from 5 Monsanto? A. Correct. Q. He's listed here as a study monitor? 8 MR. FAYNE: Objection. Lacks foundation. 9 A. Yes. That's
2 3 4 5 6 7 8 9 10	THE WITNESS: I'm sorry, I'm missing where you are. Q. (BY MR. KRISTAL:) Sure. Page 2, Section A. So we're down into the Donna Farmer? Q. Yes. A. All right. Q. Let's state that. Donna Farmer had meeting minutes dated 2/25 that she had prepared April 17th, 1999, which is on the second page of this e-mail; is that correct?	 Q. Yes. A. Page 8? Yes. Q. You're aware that Dr. F 4 B-R-O-E-C-K-A-E-R-T was the study monitor from 5 Monsanto? A. Correct. Q. He's listed here as a study monitor? MR. FAYNE: Objection. Lacks foundation. A. Yes. That's
2 3 4 5 6 7 8 9 10 11	 THE WITNESS: I'm sorry, I'm missing where you are. Q. (BY MR. KRISTAL:) Sure. Page 2, Section A. So we're down into the Donna Farmer? Q. Yes. A. All right. Q. Let's state that. Donna Farmer had meeting minutes dated 2/25 that she had prepared April 17th, 1999, which is on the second page of this e-mail; is that correct? A. Yes. 	 Q. Yes. A. Page 8? Yes. Q. You're aware that Dr. F
2 3 4 5 6 7 8 9 10	 THE WITNESS: I'm sorry, I'm missing where you are. Q. (BY MR. KRISTAL:) Sure. Page 2, Section A. So we're down into the Donna Farmer? Q. Yes. A. All right. Q. Let's state that. Donna Farmer had meeting minutes dated 2/25 that she had prepared April 17th, 1999, which is on the second page of this e-mail; is that correct? A. Yes. Q. And she writes, "Please find the meeting 	 Q. Yes. A. Page 8? Yes. Q. You're aware that Dr. F B-R-O-E-C-K-A-E-R-T was the study monitor from Monsanto? A. Correct. Q. He's listed here as a study monitor? MR. FAYNE: Objection. Lacks foundation. A. Yes. That's
2 3 4 5 6 7 8 9 10 11	THE WITNESS: I'm sorry, I'm missing where you are. Q. (BY MR. KRISTAL:) Sure. Page 2, Section A. So we're down into the Donna Farmer? Q. Yes. A. All right. Q. Let's state that. Donna Farmer had meeting minutes dated 2/25 that she had prepared April 17th, 1999, which is on the second page of this e-mail; is that correct? A. Yes. Q. And she writes, "Please find the meeting minutes and actions from our 2/25 meeting below."	 Q. Yes. A. Page 8? Yes. Q. You're aware that Dr. F B-R-O-E-C-K-A-E-R-T was the study monitor from Monsanto? A. Correct. Q. He's listed here as a study monitor? MR. FAYNE: Objection. Lacks foundation. A. Yes. That's
2 3 4 5 6 7 8 9 10 11 12	 THE WITNESS: I'm sorry, I'm missing where you are. Q. (BY MR. KRISTAL:) Sure. Page 2, Section A. So we're down into the Donna Farmer? Q. Yes. A. All right. Q. Let's state that. Donna Farmer had meeting minutes dated 2/25 that she had prepared April 17th, 1999, which is on the second page of this e-mail; is that correct? A. Yes. Q. And she writes, "Please find the meeting minutes and actions from our 2/25 meeting below." A. Correct. 	 Q. Yes. A. Page 8? Yes. Q. You're aware that Dr. F
2 3 4 5 6 7 8 9 10 11 12 13	 THE WITNESS: I'm sorry, I'm missing where you are. Q. (BY MR. KRISTAL:) Sure. Page 2, Section A. So we're down into the Donna Farmer? Q. Yes. A. All right. Q. Let's state that. Donna Farmer had meeting minutes dated 2/25 that she had prepared April 17th, 1999, which is on the second page of this e-mail; is that correct? A. Yes. Q. And she writes, "Please find the meeting minutes and actions from our 2/25 meeting below." A. Correct. Q. Does she not? 	 Q. Yes. A. Page 8? Yes. Q. You're aware that Dr. F
2 3 4 5 6 7 8 9 10 11 12 13 14	 THE WITNESS: I'm sorry, I'm missing where you are. Q. (BY MR. KRISTAL:) Sure. Page 2, Section A. So we're down into the Donna Farmer? Q. Yes. A. All right. Q. Let's state that. Donna Farmer had meeting minutes dated 2/25 that she had prepared April 17th, 1999, which is on the second page of this e-mail; is that correct? A. Yes. Q. And she writes, "Please find the meeting minutes and actions from our 2/25 meeting below." A. Correct. Q. Does she not? A. Yes. 	 Q. Yes. A. Page 8? Yes. Q. You're aware that Dr. F B-R-O-E-C-K-A-E-R-T was the study monitor from Monsanto? A. Correct. Q. He's listed here as a study monitor? MR. FAYNE: Objection. Lacks foundation. A. Yes. That's
2 3 4 5 6 7 8 9 10 11 12 13 14 15	 THE WITNESS: I'm sorry, I'm missing where you are. Q. (BY MR. KRISTAL:) Sure. Page 2, Section A. So we're down into the Donna Farmer? Q. Yes. A. All right. Q. Let's state that. Donna Farmer had meeting minutes dated 2/25 that she had prepared April 17th, 1999, which is on the second page of this e-mail; is that correct? A. Yes. Q. And she writes, "Please find the meeting minutes and actions from our 2/25 meeting below." A. Correct. Q. Does she not? A. Yes. Q. And paragraph 4 of the meeting minutes is 	 Q. Yes. A. Page 8? Yes. Q. You're aware that Dr. F
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 THE WITNESS: I'm sorry, I'm missing where you are. Q. (BY MR. KRISTAL:) Sure. Page 2, Section A. So we're down into the Donna Farmer? Q. Yes. A. All right. Q. Let's state that. Donna Farmer had meeting minutes dated 2/25 that she had prepared April 17th, 1999, which is on the second page of this e-mail; is that correct? A. Yes. Q. And she writes, "Please find the meeting minutes and actions from our 2/25 meeting below." A. Correct. Q. Does she not? A. Yes. 	 Q. Yes. A. Page 8? Yes. Q. You're aware that Dr. F
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 THE WITNESS: I'm sorry, I'm missing where you are. Q. (BY MR. KRISTAL:) Sure. Page 2, Section A. So we're down into the Donna Farmer? Q. Yes. A. All right. Q. Let's state that. Donna Farmer had meeting minutes dated 2/25 that she had prepared April 17th, 1999, which is on the second page of this e-mail; is that correct? A. Yes. Q. And she writes, "Please find the meeting minutes and actions from our 2/25 meeting below." A. Correct. Q. Does she not? A. Yes. Q. And paragraph 4 of the meeting minutes is 	 Q. Yes. A. Page 8? Yes. Q. You're aware that Dr. F B-R-O-E-C-K-A-E-R-T was the study monitor from Monsanto? A. Correct. Q. He's listed here as a study monitor? MR. FAYNE: Objection. Lacks foundation. A. Yes. That's
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 THE WITNESS: I'm sorry, I'm missing where you are. Q. (BY MR. KRISTAL:) Sure. Page 2, Section A. So we're down into the Donna Farmer? Q. Yes. A. All right. Q. Let's state that. Donna Farmer had meeting minutes dated 2/25 that she had prepared April 17th, 1999, which is on the second page of this e-mail; is that correct? A. Yes. Q. And she writes, "Please find the meeting minutes and actions from our 2/25 meeting below." A. Correct. Q. Does she not? A. Yes. Q. And paragraph 4 of the meeting minutes is entitled "Global Experts"? 	 Q. Yes. A. Page 8? Yes. Q. You're aware that Dr. F
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 THE WITNESS: I'm sorry, I'm missing where you are. Q. (BY MR. KRISTAL:) Sure. Page 2, Section A. So we're down into the Donna Farmer? Q. Yes. A. All right. Q. Let's state that. Donna Farmer had meeting minutes dated 2/25 that she had prepared April 17th, 1999, which is on the second page of this e-mail; is that correct? A. Yes. Q. And she writes, "Please find the meeting minutes and actions from our 2/25 meeting below." A. Correct. Q. Does she not? A. Yes. Q. And paragraph 4 of the meeting minutes is entitled "Global Experts"? A. Yes. Q. And it reads, "Reviewed Dr. Parry's analysis. 	 Q. Yes. A. Page 8? Yes. Q. You're aware that Dr. F B-R-O-E-C-K-A-E-R-T was the study monitor from Monsanto? A. Correct. Q. He's listed here as a study monitor? MR. FAYNE: Objection. Lacks foundation. A. Yes. That's
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 THE WITNESS: I'm sorry, I'm missing where you are. Q. (BY MR. KRISTAL:) Sure. Page 2, Section A. So we're down into the Donna Farmer? Q. Yes. A. All right. Q. Let's state that. Donna Farmer had meeting minutes dated 2/25 that she had prepared April 17th, 1999, which is on the second page of this e-mail; is that correct? A. Yes. Q. And she writes, "Please find the meeting minutes and actions from our 2/25 meeting below." A. Correct. Q. Does she not? A. Yes. Q. And paragraph 4 of the meeting minutes is entitled "Global Experts"? A. Yes. Q. And it reads, "Reviewed Dr. Parry's analysis. 	 Q. Yes. A. Page 8? Yes. Q. You're aware that Dr. F
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 THE WITNESS: I'm sorry, I'm missing where you are. Q. (BY MR. KRISTAL:) Sure. Page 2, Section A. So we're down into the Donna Farmer? Q. Yes. A. All right. Q. Let's state that. Donna Farmer had meeting minutes dated 2/25 that she had prepared April 17th, 1999, which is on the second page of this e-mail; is that correct? A. Yes. Q. And she writes, "Please find the meeting minutes and actions from our 2/25 meeting below." A. Correct. Q. Does she not? A. Yes. Q. And paragraph 4 of the meeting minutes is entitled "Global Experts"? A. Yes. Q. And it reads, "Reviewed Dr. Parry's analysis. 	 Q. Yes. A. Page 8? Yes. Q. You're aware that Dr. F
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 THE WITNESS: I'm sorry, I'm missing where you are. Q. (BY MR. KRISTAL:) Sure. Page 2, Section A. So we're down into the Donna Farmer? Q. Yes. A. All right. Q. Let's state that. Donna Farmer had meeting minutes dated 2/25 that she had prepared April 17th, 1999, which is on the second page of this e-mail; is that correct? A. Yes. Q. And she writes, "Please find the meeting minutes and actions from our 2/25 meeting below." A. Correct. Q. Does she not? A. Yes. Q. And paragraph 4 of the meeting minutes is entitled "Global Experts"? A. Yes. Q. And it reads, "Reviewed Dr. Parry's analysis. What is our next step? Dr. Parry concluded on his evaluation of the four articles that glyphosate is 	 Q. Yes. A. Page 8? Yes. Q. You're aware that Dr. F
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	THE WITNESS: I'm sorry, I'm missing where you are. Q. (BY MR. KRISTAL:) Sure. Page 2, Section A. So we're down into the Donna Farmer? Q. Yes. A. All right. Q. Let's state that. Donna Farmer had meeting minutes dated 2/25 that she had prepared April 17th, 1999, which is on the second page of this e-mail; is that correct? A. Yes. Q. And she writes, "Please find the meeting minutes and actions from our 2/25 meeting below." A. Correct. Q. Does she not? A. Yes. Q. And paragraph 4 of the meeting minutes is entitled "Global Experts"? A. Yes. Q. And it reads, "Reviewed Dr. Parry's analysis. What is our next step? Dr. Parry concluded on his evaluation of the four articles that glyphosate is capable of producing genotoxicity both in vivo and in	 Q. Yes. A. Page 8? Yes. Q. You're aware that Dr. F

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	Page 306		Page 308
1	THE WITNESS: Yes, there is.	1	j
2	Q. (BY MR. KRISTAL:) And it's entitled "Statement	2	A. Not that I'm aware of.
3	of GLP compliance."	3	Q. Okay. And is the draft, Exhibit 5, does it
4	"We, the undersigned, hereby declare that this	4	have the same quality assurance statement that is in the
5	report constitutes a true and complete representation of	5	final report, except for the fact that in the draft it
6	the procedures followed and of the results obtained in	6	had not yet been signed and dated?
7	this study by TNO Nutrition and Food Research, and that	7	A. Yes, it does.
8	the study was carried out under our supervision. The	8	Q. Okay. Is there any indication anywhere in this
9	study was carried out in accordance with the OECD	9	draft or final report that the study was conducted under
10	Principles of Good Laboratory Practice."	10	any circumstances other than under good laboratory
11	Do you see that?	11	practices?
12	A. Yes, I do.	12	A. Not that I'm aware of.
13	Q. And does that same statement appear in the	13	Q. If you would turn to page 18 of the final
14	draft, Exhibit 13, accepted as not signed and dated?	14	study, Exhibit 12.
15	A. No, it doesn't.	15	A. Page 18?
16	Q. If you look at page 4 of	16	Q. Yes. Where it says "Deviations of the
17	A. The statement appears, but it's not signed.	17	· ·
18	Q. Right. Exactly. So is that the in the	18	A. Yes, I have it.
19	draft, the same exact statement of Good Laboratory	19	Q. Okay. Monsanto counsel read the second
20	Practice compliance was sent among Monsanto, it just had	20	paragraph, which ends with the statement, "Therefore,
21	not yet been signed and dated?	21	
22	A. That is correct.		performed using viable" skin "human skin membranes."
23	Q. All right. And if you look on page 8 of	23	Do you see that?
	Exhibit 30 13, the draft.	24	MR. FAYNE: Objection. Mischaracterizes my
25	A. Okay, page 8. I'm there.		question.
	A. Okay, page 6. Thi there.		question.
			D
	Page 307		Page 309
1	Page 307 Q. It's entitled "GLP Compliance Monitoring Unit	1	
1	C	1 2	-
	Q. It's entitled "GLP Compliance Monitoring Unit	2	A. I see that sentence. You read it correctly.
2	Q. It's entitled "GLP Compliance Monitoring Unit Statement."	2 3	A. I see that sentence. You read it correctly.Q. Okay. In the initial protocol of the study,
2	Q. It's entitled "GLP Compliance Monitoring Unit Statement." MR. FAYNE: I'm sorry. You're on Exhibit 13?	2 3 4	A. I see that sentence. You read it correctly.Q. Okay. In the initial protocol of the study, the initial design of the study, was there also going to
2 3 4	 Q. It's entitled "GLP Compliance Monitoring Unit Statement." MR. FAYNE: I'm sorry. You're on Exhibit 13? MR. KRISTAL: Yes. I'm sorry, 6. Looks like 	2 3 4	A. I see that sentence. You read it correctly.Q. Okay. In the initial protocol of the study, the initial design of the study, was there also going to be a human skin membrane dermal absorption portion of
2 3 4 5	 Q. It's entitled "GLP Compliance Monitoring Unit Statement." MR. FAYNE: I'm sorry. You're on Exhibit 13? MR. KRISTAL: Yes. I'm sorry, 6. Looks like an 8. 	2 3 4 5	A. I see that sentence. You read it correctly.Q. Okay. In the initial protocol of the study, the initial design of the study, was there also going to be a human skin membrane dermal absorption portion of the study?
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			ES BEIDFOOK, PILD.
1	Page 310	1	Page 312 A. I'm there.
	work with TNO, and that included the human skin membrane	1	
2	study that was going to be a part of the first contract,		Q. Okay. What were the worker safety provisions
3	if you will. Q. (BY MR. KRISTAL:) Okay. And did you write	3	1 8
4		4	A. There were some requirements involving personal
5	about the reason Monsanto articulated internally for	5	
6	stopping the study?	6	goggles or a face shield, chemical-resistant gloves, a
7	A. Yes. It's in my expert report.		
8	Q. Okay. If you would turn to paragraph 444.	8	shoe coverings or boots. That was the required personal
9	A. Okay. 444. Okay. 444, I'm there.	9	protective equipment.
10	Q. Okay.	10	There's a provision on when that additional
11	A. Page 98.	11	
12	Q. And do you quote in paragraph 444 from an	12	
13	April 4th, 2002, e-mail from the Monsanto study monitor	13	1 1
14		14	And then in terms of the handling, the
15	A. Yes, I do.	15	management of the gloves, there's under "Important,"
16	Q. Okay. And could you read the quote that you	16	it says, "Before removing gloves, wash them with soap
17	wrote in paragraph 444 of your report regarding why	17	and water. Always wash hands, face and arms with soap
18	Monsanto decided to stop the study?	18	and water before smoking, eating, drinking or
19	A. "We came to the conclusion that the penetration	19	toileting."
20	of glyphosate would have been (probably) greater than	20	And then there's a provision that refers to the
21	the 3 percent already imposed by the German authorities.	21	handling of clothing that becomes contaminated or
22	We decided, thus, to stop" in capital letters,	22	1 2
23	bolded "the study effective today."	23	"After work, wash protective clothing and
24	Q. Okay. And was that statement contained from an	24	
25	e-mail produced by Monsanto in this litigation?	25	worn during the application should be laundered
	Page 311		Page 313
1	Page 311 A. Right. The MONGLY number is given in my expert	1	Page 313 separately from household articles," and that "Clothing
1 2	A. Right. The MONGLY number is given in my expert		C C
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2 3	A. Right. The MONGLY number is given in my expert report.	2	separately from household articles," and that "Clothing or protective equipment that becomes heavily contaminated or drenched with glyphosate has to be
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$\mathsf{Case 3:16} - \mathsf{md}_{\mathsf{O27741}} \mathcal{A}_{\mathsf{Cn}} \mathcal{P}_{\mathsf{O24}} \mathsf{ment}_{\mathsf{CA1274}} \mathcal{A}_{\mathsf{Cn}} \mathcal$

	Dama 214	-	Base 216
	Page 314		Page 316
	designed to reduce exposures through through the	1	MR. FAYNE: Give me one second. Which one is
	hands.		that?
3	Why is that making so much noise? I'm sorry.	3	MR. KRISTAL: 15.
4	I'm just going to have to let it ring. I'll turn the	4	THE WITNESS: February 24, 1986. It's the
5	thing off. Maybe that will do it. Yeah.	5	MR. FAYNE: Yes, I got it now. Thank you.
6	I'm sorry, could we could we go back to	6	MR. KRISTAL: On the page that ends Bates
7	where I was	7	number 5517.
8	Q. Sure.	8	Q. (BY MR. KRISTAL:) The first full paragraph
9	A before I was interrupted by my damn phone,	9	also gives a little bit of the history of the review of
10	my phone.	10	the database.
11	Q. I was asking if you remember the line of	11	A. Correct.
12	questioning about eye irritation and skin irritation	12	Q. Does it not?
13	vis-à-vis the request to put in the worker protection	13	And it reads "The Federal Insecticide Fungicide
	provisions, and I asked you if those provisions would	14	
15	also reduce exposures to Roundup regardless of the	15	has completed review of the database supporting the
16	adverse effect.		Environmental Protection Agency's decision to classify
17	MR. FAYNE: Same objection.	17	glyphosate as a class C possible human carcinogen."
18	A. Yes, it would. They're designed to reduce	18	Do you see that?
19	exposure to the eyes, to the hands, to the skin, to the	19	A. Yes.
20	feet, to the legs, to the back and to the torso.	20	Q. Okay. How long did that classification remain
21	Q. If you would find Exhibit 16, please, in the		in effect?
	pile. It's the October 1991 peer review of glyphosate.	22	A. Through 1991.
23	A. 16?	23	Q. Okay. So in between this date of this
24			
	Q. Yes, sir.	24	I G
25	A. All right. I'm there. Making a mess of my	25	approximately six and a half years through 1991, was
	Page 315		Page 317
1	Page 315 nice pile. All right. Second peer review.	1	Page 317 there ever any information provided by Monsanto on a
1	-		-
	nice pile. All right. Second peer review.	2	there ever any information provided by Monsanto on a
2	nice pile. All right. Second peer review. Q. Okay. And on the third page, Bates number 479.	2	there ever any information provided by Monsanto on a Roundup label that glyphosate, the active ingredient,
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	Page 318		Page 320
1	A. Correct. And I suggested language that is	1	they relied on and their use of historical control data
2	similar to the language that they that Monsanto		leading them to dismiss essentially all of the positive
3	actually put on the Lasso or Alachlor label.	3	tumor data in all of the animal bioassays. So they
4	MR. KRISTAL: Okay. I'm going to mark as	4	in their document, they do their best to justify the
5	hopefully the last document, Exhibit 27.	5	conclusions that they reached based on their review of
6	(Exhibit 27 marked for identification.)	6	the animal bioassay data, and that's what that's what
7	Q. (BY MR. KRISTAL:) Thank you. This is an EPA	7	they then asked the SAP to review.
8	document dated March 16th, 2017. The subject is	8	Q. Okay. But did the EPA itself explain why it
9	"Transmission of meeting minutes and final report of the	9	didn't follow its own cancer guidelines?
10	December 13th through 16th, 2016 FIFRA SAP meeting."	10	A. No, they didn't mention that fact.
11	Have you reviewed this document before?	11	Q. Okay. To your knowledge, is there any
12	A. Yes, I have.	12	indication that IARC failed to follow its guidelines as
13	Q. And did the SAP evaluate the environmental	13	established in its preamble
14	protection strike that.	14	A. No.
15	"SAP" means what?	15	Q in terms of evaluating the carcinogenicity
16	A. Scientific advisory panel.	16	of glyphosate?
17	Q. Okay. In this report dated March 16th, 2017,	17	A. In their report, correct. I yes, there was
18	did the scientific advisory panel evaluate the	18	no indication that they deviated from standard IARC
19	Environmental Protection Agency's review of technical	19	protocols.
20	glyphosate?	20	Q. Okay. Did the if you turn to page 82 of
21	A. Yes. That was the part of the focus of it, and	21	Exhibit 27, the SAP
22	there was a series of questions placed to the SAP, as is	22	A. The same one we're in?
23	always done when a scientific advisory panel meeting is	23	Q. Yes.
24	scheduled.	24	A. I'm there.
25	Q. And if you would kindly turn to page 18.	25	Q. There's a section entitled "Scientific quality
	Page 319	-	Page 321
1	1 456 517	1	1 age 521
1	A. Okay. I'm there.	1	of the agency's carcinogenic potential
1 2	_	1 2	of the agency's carcinogenic potential
	A. Okay. I'm there.		of the agency's carcinogenic potential
2	A. Okay. I'm there.Q. Did the entire SAP panel conclude that the EPA	2	of the agency's carcinogenic potential characterization."
2 3	A. Okay. I'm there.Q. Did the entire SAP panel conclude that the EPA did not follow its own guidelines	2 3	of the agency's carcinogenic potential characterization." Do you see that?
2 3 4	A. Okay. I'm there.Q. Did the entire SAP panel conclude that the EPA did not follow its own guidelinesA. Yes.	2 3 4 5	of the agency's carcinogenic potential characterization." Do you see that? A. Yes, I do. Q. Okay. And it reads in that first paragraph,
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1	THE WITNESS: They did in the context of their	1	Q. Were you aware that EPA issued a notice of
	review of the epidemiological evidence, all of which		intent to cancel the registration of Alachlor?
	involved exposures to glyphosate-based herbicides and	3	A. Alachlor.
	real-world exposures, and they also did in the genotox	4	Q. Alachlor.
		5	A. It's okay.
6	were exposed to a glyphosate-based herbicide under	6	Q. I'll restate the question.
7	real-world conditions.	7	Were you aware that EPA issued a notice of
8	Q. (BY MR. KRISTAL:) Have there been any	8	intent to cancel the registration of Alachlor?
9	questions today by Monsanto's counsel or by myself that	9	A. Probably back when I was doing research on corn
10	leads you to change any of the opinions and conclusions	10	herbicides I was aware of it, but I haven't gone back to
11	expressed in your report in this case?	11	review the record in preparation for this deposition.
12	A. No.	12	Q. Were you aware that EPA required a label
13	MR. KRISTAL: I have no further questions	13	statement that Alachlor labels include the label warning
14	unless	14	"Restricted use due to oncogenicity, a tumor hazard
15	MR. FAYNE: We can go off record for five	15	warning"?
16	minutes.	16	A. Yes.
17	VIDEOGRAPHER: Off the record at 5:39 p.m.	17	Q. Did EPA ever require that glyphosate-based
18	(A brief recess was had.)	18	herbicide labels include a label warning for restricted
19	VIDEOGRAPHER: Back on the record at 5:47 p.m.	19	use due to oncogenicity?
20	FURTHER EXAMINATION	20	A. No.
21	BY MR. FAYNE:	21	Q. Did EPA ever require that glyphosate-based
22	Q. Dr. Benbrook, you were shown by counsel	22	herbicide labels include a label warning for a tumor
23	Exhibit 25, which relates to the chemical Alachlor; is	23	hazard?
24	that correct?	24	A. No.
25	A. Alachlor.	25	Q. Are you aware of any company including a cancer
	Page 323		Page 325
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2	Q. Alachlor. Thank you. Is that correct?A. Yes.	2	warning on a pesticide label in a situation other than when EPA required such a warning?
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	Confidencial	_	
	Page 326		Page 328
1	Q. Did you rely upon this document in forming your	1	formulated products today are consistent with the
2	opinions in this case?	2	findings of international regulatory bodies; correct?
3	A. This is a this is a document that's been	3	MR. KRISTAL: Objection.
4	part of pesticide registration and the code of conduct	4	Q. Glyphosate formulations. I apologize. Let me
5	internationally for 35 years, 40 years. It's it's	5	restate the question.
6	one of thousands of documents that I've used and has	6	In general, the find the labels on Monsanto
7	informed my understanding of pesticide risk and	7	formulations today are consistent with the findings of
8	regulation, stewardship obligations. And I apologize	8	international regulatory agencies; correct?
9	for not including on my reliance list everything that	9	MR. ESFANDIARY: Which ones under the
10	I've read in the last 40 years on pesticides.	10	formulations?
11	Q. If you could turn to page 11, Article 4,	11	MR. KRISTAL: It's getting late. Don't worry.
12	Testing of Pesticides.	12	Q. (BY MR. FAYNE:) It's getting really late. I
13	A. Page 11. Okay. I'm there.	13	apologize. I'll restate the question for the third time
14	Q. Section 4.1.2 states that, "A pesticide	14	and this time I'm going to get it correct. I promise.
15	industry should ensure that such tests are conducted in	15	You would agree with me, Dr. Benbrook, at this
16	accordance with sound scientific and experimental	16	late hour, that the labels on Monsanto's
17	procedures and the principles of good laboratory and	17	glyphosate-based formulations are consistent with the
18	experimental practice"; correct?	18	findings of regulatory agencies around the world with
19	A. Correct.	19	respect to cancer; correct?
20	Q. You're not making any claim that Monsanto	20	A. Yes.
21	violated good laboratory practices in conducting studies	21	Q. You'd also agree that the California state
22	on glyphosate; correct?	22	agency OEHHA does not have authority to register
23	A. No, I have not.	23	pesticides in California; correct?
24	Q. If you turn to 4.1.3, it states that,	24	A. Correct.
25	"Pesticide industries should make available copies or	25	Q. Does not have the authority to approve
	D 005		
	Page 327		Page 329
1	Page 327 summaries of the original reports of such tests for	1	Page 329 pesticide labels: correct?
	summaries of the original reports of such tests for	1	pesticide labels; correct?
2	summaries of the original reports of such tests for assessment by responsible governmental authorities in	2	pesticide labels; correct? A. Right. That's the California Department of
2 3	summaries of the original reports of such tests for assessment by responsible governmental authorities in all countries where the pesticide is to be offered for	2	pesticide labels; correct?A. Right. That's the California Department ofFood and Agriculture that does that, DPR.
2 3	summaries of the original reports of such tests for assessment by responsible governmental authorities in all countries where the pesticide is to be offered for sale or use." Do you see that?	2 3 4	pesticide labels; correct?A. Right. That's the California Department ofFood and Agriculture that does that, DPR.Q. You've testified that you've reviewed this
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1		-	
1	Page 330		Page 332
1	regulators, and the scientific community knows about the	1	Q. So you're not aware that they affirmed their
2	exposures and risks arising from use of pesticides.	2	
3	Q. You were asked about worker safety language in	3	r
4	the 1986 registration standard document; correct?	4	A. I'm not surprised to learn that they would
5	A. Yes, I was.	5	
6	Q. Would you agree that that worker safety	6	Q. Did you review strike that.
7	language is not present in the 1993 registration	7	Did you rely on this SAP document in forming
8	eligibility document for glyphosate?	8	your opinions in this case?
9	A. I would agree with that, yes.	9	A. That that's the most recent SAP meeting,
10	Q. You were shown a document, I believe it's	10	and, yes, I was aware of it. I haven't I haven't
11		11	read the I don't think I've ever read it straight
12	transmission of meeting minutes and final	12	
13	A. Right.	13	findings of it.
14	Q report of the SAP?	14	Q. Is it cited in your reliance list?
15	A. Yep.	15	A. I don't know. I can't remember.
16	Q. You were asked whether I believe you were	16	Q. I'd like to turn now to some questions that
17	asked whether Monsanto strike that.	17	
18	You were asked whether EPA addressed the	18	A. Okay.
19	comments of the SAP; is that correct?	19	Q. And if I could, I would like to direct you to
20	Perhaps I'm incorrect.	20	the EPA reporting requirements. And I apologize, I'm
21	I'm sorry. You were asked in this report, SAP	21	not sure which exhibit this is. This is the 40 CFR
22	stated that EPA did not follow its guidelines; correct?		Part 159, Subpart D.
23	A. Correct.	23	A. 11.
24	Q. And you were asked whether EPA ever explained	24	Q. Thank you. So if I could turn your attention
25	why it didn't follow its guidelines; correct?	25	to Exhibit 11. And as we talked about earlier today, if
	Page 331		Page 333
1	A. I was asked that, yes.	1	you look at Section 159.155.
2	Q. Have you reviewed the document in which EPA	2	A. 155?
3	responded to the comments of the SAP?	3	Q. Yes, 155.
4	A. No.	4	A. Okay.
5	Q. Have you reviewed the 2017 December 2017 OPP	5	Q. This section addresses when information must be
6	report which was revised following the OPP the SAP	6	
		6	, , , , , , , , , , , , , , , , , , ,
7	e e e	7	submitted. And as we talked about earlier today, it provides seven categories of reportable information.
8	A. Are you talking about the draft human health		provides seven categories of reportable information. Do you see that?
8 9	A. Are you talking about the draft human health risk assessment?	7 8 9	provides seven categories of reportable information.Do you see that?A. Yes.
8 9 10	A. Are you talking about the draft human health risk assessment?Q. I'm talking about EPA's December 2017 revised	7 8	provides seven categories of reportable information.Do you see that?A. Yes.Q. So now I'd like to turn to 159.158, which is
8 9 10	A. Are you talking about the draft human health risk assessment?Q. I'm talking about EPA's December 2017 revised issue paper.	7 8 9	provides seven categories of reportable information.Do you see that?A. Yes.Q. So now I'd like to turn to 159.158, which is the section that counsel asked you about.
8 9 10 11 12	A. Are you talking about the draft human health risk assessment?Q. I'm talking about EPA's December 2017 revised issue paper.A. Please put it in front of me.	7 8 9 10 11 12	provides seven categories of reportable information.Do you see that?A. Yes.Q. So now I'd like to turn to 159.158, which is the section that counsel asked you about.A. 158. Okay.
8 9 10 11 12 13	 A. Are you talking about the draft human health risk assessment? Q. I'm talking about EPA's December 2017 revised issue paper. A. Please put it in front of me. Q. I don't have it here today. This is the 	7 8 9 10 11	 provides seven categories of reportable information. Do you see that? A. Yes. Q. So now I'd like to turn to 159.158, which is the section that counsel asked you about. A. 158. Okay. Q. Part A states, "Information which is reportable
8 9 10 11 12 13 14	 A. Are you talking about the draft human health risk assessment? Q. I'm talking about EPA's December 2017 revised issue paper. A. Please put it in front of me. Q. I don't have it here today. This is the updated version of the 2016 report that we've been 	7 8 9 10 11 12 13 14	 provides seven categories of reportable information. Do you see that? A. Yes. Q. So now I'd like to turn to 159.158, which is the section that counsel asked you about. A. 158. Okay. Q. Part A states, "Information which is reportable under this part must be submitted if the registrant"
8 9 10 11 12 13 14 15	 A. Are you talking about the draft human health risk assessment? Q. I'm talking about EPA's December 2017 revised issue paper. A. Please put it in front of me. Q. I don't have it here today. This is the updated version of the 2016 report that we've been reviewing today. 	7 8 9 10 11 12 13 14 15	 provides seven categories of reportable information. Do you see that? A. Yes. Q. So now I'd like to turn to 159.158, which is the section that counsel asked you about. A. 158. Okay. Q. Part A states, "Information which is reportable under this part must be submitted if the registrant" and then it goes on to describe who possesses that
8 9 10 11 12 13 14 15 16	 A. Are you talking about the draft human health risk assessment? Q. I'm talking about EPA's December 2017 revised issue paper. A. Please put it in front of me. Q. I don't have it here today. This is the updated version of the 2016 report that we've been reviewing today. A. Okay. 	7 8 9 10 11 12 13 14 15 16	 provides seven categories of reportable information. Do you see that? A. Yes. Q. So now I'd like to turn to 159.158, which is the section that counsel asked you about. A. 158. Okay. Q. Part A states, "Information which is reportable under this part must be submitted if the registrant" and then it goes on to describe who possesses that information; correct?
8 9 10 11 12 13 14 15 16 17	 A. Are you talking about the draft human health risk assessment? Q. I'm talking about EPA's December 2017 revised issue paper. A. Please put it in front of me. Q. I don't have it here today. This is the updated version of the 2016 report that we've been reviewing today. A. Okay. Q. Have you do you recall if you reviewed that 	7 8 9 10 11 12 13 14 15 16 17	 provides seven categories of reportable information. Do you see that? A. Yes. Q. So now I'd like to turn to 159.158, which is the section that counsel asked you about. A. 158. Okay. Q. Part A states, "Information which is reportable under this part must be submitted if the registrant" and then it goes on to describe who possesses that information; correct? A. Yes, sir.
8 9 10 11 12 13 14 15 16 17 18	 A. Are you talking about the draft human health risk assessment? Q. I'm talking about EPA's December 2017 revised issue paper. A. Please put it in front of me. Q. I don't have it here today. This is the updated version of the 2016 report that we've been reviewing today. A. Okay. Q. Have you do you recall if you reviewed that document? 	7 8 9 10 11 12 13 14 15 16 17 18	 provides seven categories of reportable information. Do you see that? A. Yes. Q. So now I'd like to turn to 159.158, which is the section that counsel asked you about. A. 158. Okay. Q. Part A states, "Information which is reportable under this part must be submitted if the registrant" and then it goes on to describe who possesses that information; correct? A. Yes, sir. Q. So the information must be reportable under
8 9 10 11 12 13 14 15 16 17 18 19	 A. Are you talking about the draft human health risk assessment? Q. I'm talking about EPA's December 2017 revised issue paper. A. Please put it in front of me. Q. I don't have it here today. This is the updated version of the 2016 report that we've been reviewing today. A. Okay. Q. Have you do you recall if you reviewed that document? A. Yes, I have. 	7 8 9 10 11 12 13 14 15 16 17 18 19	 provides seven categories of reportable information. Do you see that? A. Yes. Q. So now I'd like to turn to 159.158, which is the section that counsel asked you about. A. 158. Okay. Q. Part A states, "Information which is reportable under this part must be submitted if the registrant" and then it goes on to describe who possesses that information; correct? A. Yes, sir. Q. So the information must be reportable under this part; correct?
8 9 10 11 12 13 14 15 16 17 18 19 20	 A. Are you talking about the draft human health risk assessment? Q. I'm talking about EPA's December 2017 revised issue paper. A. Please put it in front of me. Q. I don't have it here today. This is the updated version of the 2016 report that we've been reviewing today. A. Okay. Q. Have you do you recall if you reviewed that document? A. Yes, I have. Q. Do you recall if that document addresses any of 	7 8 9 10 11 12 13 14 15 16 17 18 19 20	 provides seven categories of reportable information. Do you see that? A. Yes. Q. So now I'd like to turn to 159.158, which is the section that counsel asked you about. A. 158. Okay. Q. Part A states, "Information which is reportable under this part must be submitted if the registrant" and then it goes on to describe who possesses that information; correct? A. Yes, sir. Q. So the information must be reportable under this part; correct? A. Information that falls into these categories
8 9 10 11 12 13 14 15 16 17 18 19 20 21	 A. Are you talking about the draft human health risk assessment? Q. I'm talking about EPA's December 2017 revised issue paper. A. Please put it in front of me. Q. I don't have it here today. This is the updated version of the 2016 report that we've been reviewing today. A. Okay. Q. Have you do you recall if you reviewed that document? A. Yes, I have. Q. Do you recall if that document addresses any of the issues raised by the SAP? 	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 provides seven categories of reportable information. Do you see that? A. Yes. Q. So now I'd like to turn to 159.158, which is the section that counsel asked you about. A. 158. Okay. Q. Part A states, "Information which is reportable under this part must be submitted if the registrant" and then it goes on to describe who possesses that information; correct? A. Yes, sir. Q. So the information must be reportable under this part; correct? A. Information that falls into these categories has to be reported, yes.
8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 A. Are you talking about the draft human health risk assessment? Q. I'm talking about EPA's December 2017 revised issue paper. A. Please put it in front of me. Q. I don't have it here today. This is the updated version of the 2016 report that we've been reviewing today. A. Okay. Q. Have you do you recall if you reviewed that document? A. Yes, I have. Q. Do you recall if that document addresses any of the issues raised by the SAP? A. I believe it does, yes. 	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 provides seven categories of reportable information. Do you see that? A. Yes. Q. So now I'd like to turn to 159.158, which is the section that counsel asked you about. A. 158. Okay. Q. Part A states, "Information which is reportable under this part must be submitted if the registrant" and then it goes on to describe who possesses that information; correct? A. Yes, sir. Q. So the information must be reportable under this part; correct? A. Information that falls into these categories has to be reported, yes. Q. When this the regulation says "Information
8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. Are you talking about the draft human health risk assessment? Q. I'm talking about EPA's December 2017 revised issue paper. A. Please put it in front of me. Q. I don't have it here today. This is the updated version of the 2016 report that we've been reviewing today. A. Okay. Q. Have you do you recall if you reviewed that document? A. Yes, I have. Q. Do you recall if that document addresses any of the issues raised by the SAP? A. I believe it does, yes. Q. And you're aware that EPA directly responded to 	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 provides seven categories of reportable information. Do you see that? A. Yes. Q. So now I'd like to turn to 159.158, which is the section that counsel asked you about. A. 158. Okay. Q. Part A states, "Information which is reportable under this part must be submitted if the registrant" and then it goes on to describe who possesses that information; correct? A. Yes, sir. Q. So the information must be reportable under this part; correct? A. Information that falls into these categories has to be reported, yes. Q. When this the regulation says "Information reportable under this part," do you understand that to
8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. Are you talking about the draft human health risk assessment? Q. I'm talking about EPA's December 2017 revised issue paper. A. Please put it in front of me. Q. I don't have it here today. This is the updated version of the 2016 report that we've been reviewing today. A. Okay. Q. Have you do you recall if you reviewed that document? A. Yes, I have. Q. Do you recall if that document addresses any of the issues raised by the SAP? A. I believe it does, yes. 	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 provides seven categories of reportable information. Do you see that? A. Yes. Q. So now I'd like to turn to 159.158, which is the section that counsel asked you about. A. 158. Okay. Q. Part A states, "Information which is reportable under this part must be submitted if the registrant" and then it goes on to describe who possesses that information; correct? A. Yes, sir. Q. So the information must be reportable under this part; correct? A. Information that falls into these categories has to be reported, yes. Q. When this the regulation says "Information

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	Page 334		Page 336
1	Q. So the information must first be reportable	1	Q. So you've seen this document before; correct?
	under Part 159 of the Code of Federal Regulations;	2	A. Yeah.
3	correct?	3	Q. And this is summarizing a meeting between
4	A. Correct.		Monsanto and Dr. Parry
5	MR. FAYNE: Going to mark one last exhibit	5	A. Right.
6	today and then I'm done, I promise.	6	Q that occurred in February 2001; correct?
7	MR. KRISTAL: I've heard promises before at	7	A. Correct.
8	depositions.	8	Q. So starting with the first paragraph, second
9	MR. FAYNE: Number 28?	9	, <u>r</u>
10	MR. KRISTAL: I think so. You marked the last one which was the	10	the" Monsanto or I should say "MON 35050 study
11		11	changed the mood because it clarified certain effects
13	MR. FAYNE: Yeah.	13	found in the Bolognesi and Peluso papers."
	THE WITNESS: The EPA, the SAP report, and it		Did I read that correctly?
	is	14	A. You read it correctly, yes.
15 16	MR. KRISTAL: 27. THE WITNESS: it's 27.	15 16	Q. Do you know what the MON 35050 study is?
17			A. It's a study on that numbered Monsanto
18	Q. (BY MR. FAYNE:) So I'm marking as Exhibit 28 an e-mail chain related to a meeting with	18	formulation. I believe that's original Roundup. Q. That is the study that was designed to
19	Professor Parry, and this is cited in paragraph 492 of	19	replicate and explain the findings of the Bolognesi and
	your report.		Peluso
21	A. Okay. Just a second. And do I need to get my	21	A. Yes.
	report out, too, do you think, or are we just going to	22	Q papers; correct?
	talk about this document?	23	A. Yeah. One of one of several.
24	Q. No, we're just going to talk about this	24	Q. If you go to the "Results" section of the
	document.		summary, it states that
			summary, it states that
	Page 335		Page 337
			-
1	A. Okay. Shoot.	1	A. Let me I want to read the intervening
2	Q. So you're aware I think you testified	2	paragraphs.
2 3	Q. So you're aware I think you testified earlier that you were not aware of any written reports	2 3	paragraphs. Q. Sure.
2 3 4	Q. So you're aware I think you testified earlier that you were not aware of any written reports from Dr. Parry after August of 1999; correct?	2 3 4	paragraphs. Q. Sure. A. Okay.
2 3 4 5	Q. So you're aware I think you testifiedearlier that you were not aware of any written reportsfrom Dr. Parry after August of 1999; correct?A. I would have to go back and check the dates of	2 3 4 5	paragraphs.Q. Sure.A. Okay.Q. So the "Results" section states that,
2 3 4 5 6	Q. So you're aware I think you testifiedearlier that you were not aware of any written reportsfrom Dr. Parry after August of 1999; correct?A. I would have to go back and check the dates ofthe various Parry reports. As what became clear	2 3 4 5 6	paragraphs.Q. Sure.A. Okay.Q. So the "Results" section states that,"Acceptance that glyphosate is not genotoxic."
2 3 4 5 6 7	Q. So you're aware I think you testifiedearlier that you were not aware of any written reportsfrom Dr. Parry after August of 1999; correct?A. I would have to go back and check the dates ofthe various Parry reports. As what became clearearlier, there's a series of them.	2 3 4 5 6 7	paragraphs.Q. Sure.A. Okay.Q. So the "Results" section states that,"Acceptance that glyphosate is not genotoxic."A. That's what it says.
2 3 4 5 6 7 8	 Q. So you're aware I think you testified earlier that you were not aware of any written reports from Dr. Parry after August of 1999; correct? A. I would have to go back and check the dates of the various Parry reports. As what became clear earlier, there's a series of them. It's not exactly clear to me which ones came at 	2 3 4 5 6 7 8	 paragraphs. Q. Sure. A. Okay. Q. So the "Results" section states that, "Acceptance that glyphosate is not genotoxic." A. That's what it says. Q. "Broad agreement that genotoxic results in some
2 3 4 5 6 7 8 9	 Q. So you're aware I think you testified earlier that you were not aware of any written reports from Dr. Parry after August of 1999; correct? A. I would have to go back and check the dates of the various Parry reports. As what became clear earlier, there's a series of them. It's not exactly clear to me which ones came at the same time, which ones are two parts of one report. 	2 3 4 5 6 7 8 9	 paragraphs. Q. Sure. A. Okay. Q. So the "Results" section states that, "Acceptance that glyphosate is not genotoxic." A. That's what it says. Q. "Broad agreement that genotoxic results in some studies with surfactants arose due to oxidative damage
2 3 4 5 6 7 8 9	 Q. So you're aware I think you testified earlier that you were not aware of any written reports from Dr. Parry after August of 1999; correct? A. I would have to go back and check the dates of the various Parry reports. As what became clear earlier, there's a series of them. It's not exactly clear to me which ones came at the same time, which ones are two parts of one report. And the record it's confusing to track the flow of 	2 3 4 5 6 7 8 9 10	 paragraphs. Q. Sure. A. Okay. Q. So the "Results" section states that, "Acceptance that glyphosate is not genotoxic." A. That's what it says. Q. "Broad agreement that genotoxic results in some studies with surfactants arose due to oxidative damage rather than direct genotoxicity"; correct?
2 3 4 5 6 7 8 9 10 11	 Q. So you're aware I think you testified earlier that you were not aware of any written reports from Dr. Parry after August of 1999; correct? A. I would have to go back and check the dates of the various Parry reports. As what became clear earlier, there's a series of them. It's not exactly clear to me which ones came at the same time, which ones are two parts of one report. And the record it's confusing to track the flow of Parry's reports. I'd have to go back and look at it in 	2 3 4 5 6 7 8 9 10 11	 paragraphs. Q. Sure. A. Okay. Q. So the "Results" section states that, "Acceptance that glyphosate is not genotoxic." A. That's what it says. Q. "Broad agreement that genotoxic results in some studies with surfactants arose due to oxidative damage rather than direct genotoxicity"; correct? A. Correct. That's what it says.
2 3 4 5 6 7 8 9 10 11 12	 Q. So you're aware I think you testified earlier that you were not aware of any written reports from Dr. Parry after August of 1999; correct? A. I would have to go back and check the dates of the various Parry reports. As what became clear earlier, there's a series of them. It's not exactly clear to me which ones came at the same time, which ones are two parts of one report. And the record it's confusing to track the flow of Parry's reports. I'd have to go back and look at it in detail to give you a definitive answer. 	2 3 4 5 6 7 8 9 10 11 12	 paragraphs. Q. Sure. A. Okay. Q. So the "Results" section states that, "Acceptance that glyphosate is not genotoxic." A. That's what it says. Q. "Broad agreement that genotoxic results in some studies with surfactants arose due to oxidative damage rather than direct genotoxicity"; correct? A. Correct. That's what it says. Q. And then going down to the last bullet in that
2 3 4 5 6 7 8 9 10 11 12 13	 Q. So you're aware I think you testified earlier that you were not aware of any written reports from Dr. Parry after August of 1999; correct? A. I would have to go back and check the dates of the various Parry reports. As what became clear earlier, there's a series of them. It's not exactly clear to me which ones came at the same time, which ones are two parts of one report. And the record it's confusing to track the flow of Parry's reports. I'd have to go back and look at it in detail to give you a definitive answer. Q. But you're aware that Monsanto and Dr. Parry 	2 3 4 5 6 7 8 9 10 11 12 13	 paragraphs. Q. Sure. A. Okay. Q. So the "Results" section states that, "Acceptance that glyphosate is not genotoxic." A. That's what it says. Q. "Broad agreement that genotoxic results in some studies with surfactants arose due to oxidative damage rather than direct genotoxicity"; correct? A. Correct. That's what it says. Q. And then going down to the last bullet in that section, "No longer requested any studies on the final
2 3 4 5 6 7 8 9 10 11 12 13 14	 Q. So you're aware I think you testified earlier that you were not aware of any written reports from Dr. Parry after August of 1999; correct? A. I would have to go back and check the dates of the various Parry reports. As what became clear earlier, there's a series of them. It's not exactly clear to me which ones came at the same time, which ones are two parts of one report. And the record it's confusing to track the flow of Parry's reports. I'd have to go back and look at it in detail to give you a definitive answer. Q. But you're aware that Monsanto and Dr. Parry continued to communicate after August 1999; correct? 	2 3 4 5 6 7 8 9 10 11 12 13 14	 paragraphs. Q. Sure. A. Okay. Q. So the "Results" section states that, "Acceptance that glyphosate is not genotoxic." A. That's what it says. Q. "Broad agreement that genotoxic results in some studies with surfactants arose due to oxidative damage rather than direct genotoxicity"; correct? A. Correct. That's what it says. Q. And then going down to the last bullet in that section, "No longer requested any studies on the final formulation."
2 3 4 5 6 7 8 9 10 11 12 13 14 15	 Q. So you're aware I think you testified earlier that you were not aware of any written reports from Dr. Parry after August of 1999; correct? A. I would have to go back and check the dates of the various Parry reports. As what became clear earlier, there's a series of them. It's not exactly clear to me which ones came at the same time, which ones are two parts of one report. And the record it's confusing to track the flow of Parry's reports. I'd have to go back and look at it in detail to give you a definitive answer. Q. But you're aware that Monsanto and Dr. Parry continued to communicate after August 1999; correct? A. I am aware of that, yes. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15	 paragraphs. Q. Sure. A. Okay. Q. So the "Results" section states that, "Acceptance that glyphosate is not genotoxic." A. That's what it says. Q. "Broad agreement that genotoxic results in some studies with surfactants arose due to oxidative damage rather than direct genotoxicity"; correct? A. Correct. That's what it says. Q. And then going down to the last bullet in that section, "No longer requested any studies on the final formulation." Did I read that correctly?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 Q. So you're aware I think you testified earlier that you were not aware of any written reports from Dr. Parry after August of 1999; correct? A. I would have to go back and check the dates of the various Parry reports. As what became clear earlier, there's a series of them. It's not exactly clear to me which ones came at the same time, which ones are two parts of one report. And the record it's confusing to track the flow of Parry's reports. I'd have to go back and look at it in detail to give you a definitive answer. Q. But you're aware that Monsanto and Dr. Parry continued to communicate after August 1999; correct? A. I am aware of that, yes. Q. And I'll represent to you that you stated in 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 paragraphs. Q. Sure. A. Okay. Q. So the "Results" section states that, "Acceptance that glyphosate is not genotoxic." A. That's what it says. Q. "Broad agreement that genotoxic results in some studies with surfactants arose due to oxidative damage rather than direct genotoxicity"; correct? A. Correct. That's what it says. Q. And then going down to the last bullet in that section, "No longer requested any studies on the final formulation." Did I read that correctly? A. Yes.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 Q. So you're aware I think you testified earlier that you were not aware of any written reports from Dr. Parry after August of 1999; correct? A. I would have to go back and check the dates of the various Parry reports. As what became clear earlier, there's a series of them. It's not exactly clear to me which ones came at the same time, which ones are two parts of one report. And the record it's confusing to track the flow of Parry's reports. I'd have to go back and look at it in detail to give you a definitive answer. Q. But you're aware that Monsanto and Dr. Parry continued to communicate after August 1999; correct? A. I am aware of that, yes. Q. And I'll represent to you that you stated in your report that there was a meeting in February 2001 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 paragraphs. Q. Sure. A. Okay. Q. So the "Results" section states that, "Acceptance that glyphosate is not genotoxic." A. That's what it says. Q. "Broad agreement that genotoxic results in some studies with surfactants arose due to oxidative damage rather than direct genotoxicity"; correct? A. Correct. That's what it says. Q. And then going down to the last bullet in that section, "No longer requested any studies on the final formulation." Did I read that correctly? A. Yes. Q. As of February 2001, Dr. Parry agreed that
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 Q. So you're aware I think you testified earlier that you were not aware of any written reports from Dr. Parry after August of 1999; correct? A. I would have to go back and check the dates of the various Parry reports. As what became clear earlier, there's a series of them. It's not exactly clear to me which ones came at the same time, which ones are two parts of one report. And the record it's confusing to track the flow of Parry's reports. I'd have to go back and look at it in detail to give you a definitive answer. Q. But you're aware that Monsanto and Dr. Parry continued to communicate after August 1999; correct? A. I am aware of that, yes. Q. And I'll represent to you that you stated in your report that there was a meeting in February 2001 between Dr. Parry and Monsanto; correct? 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 paragraphs. Q. Sure. A. Okay. Q. So the "Results" section states that, "Acceptance that glyphosate is not genotoxic." A. That's what it says. Q. "Broad agreement that genotoxic results in some studies with surfactants arose due to oxidative damage rather than direct genotoxicity"; correct? A. Correct. That's what it says. Q. And then going down to the last bullet in that section, "No longer requested any studies on the final formulation." Did I read that correctly? A. Yes. Q. As of February 2001, Dr. Parry agreed that glyphosate was not genotoxic; correct?
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Page 338 1 A. Example 1 is reporting that his 2 interpretation of what Dr. Parry said. And, in fact, if 2 believed glyphosate was genotoxic?	Daga 240
	Page 340
2 interpretation of what Dr. Parry said. And, in fact, if 2 believed glyphosate was genotoxic?	ating that he
3 Dr. Parry had total changed his opinions about 3 A. I no, I don't believe I am. I wo	
4 glyphosate and glyphosate-based herbicides and believed 4 to, again, look look back at the MONO	
5 that they were not genotoxic, I'm quite sure that 5 that memorialize the interactions between	
6 Monsanto would have continued to use him and make him a 6 Dr. Parry to give a definitive answer to t	-
7 party of their third-party network, which they did not 7 Q. Same answer for glyphosate-base	ed formulations;
8 do. 8 correct?	
9So I do not believe that there was a9A. Yes.	
10substantial change in Dr. Parry's assessment of the10Q.You stated that you're not willing	g to accept
11 studies that he reviewed discussed during this meeting. 11 Dr. 11 Dr.	ng; correct?
12Q. Are you aware of whether Monsanto continued to12A. Correct.	
13work with Dr. Parry after this February 2001 meeting?13Q.Do you have any reason to believ	ve that his
14A. I think there were I think perhaps even a14summary of the meeting was inaccurated	?
15 whole 'nother year, there were some communications back 15 A. It it's impossible to, based on the	his cryptic
16 and forth, yes. I don't know if you would if that16 summary of the meeting that occurred, t	to understand
17 would classify as "work with."17 exactly what was discussed, what date it	t was presented,
18 I think there was there was concern 18 what aspects of studies Dr. Parry expres	sed a view on
19 expressed about what Parry, independent of his 19 that the interpreted was different from the second sec	om the view
20 association with Monsanto might say and do about what he 20 that Parry expressed in his earlier report	s. It's just
21 had learned in the course of this consulting assignment 21 it's not possible to render that judgment	nt based on
22 that he had done with Monsanto. There's several 22 this cursory summary of the meeting.	
23 messages that discuss what happens next in their 23 Q. So it's not possible to review the	e-mail and
24 association with Dr. Parry. 24 understand exactly what was said or what	
25 Q. You testified that Monsanto would have 25 or motivation was; correct?	1 1
Page 339	Page 341
1 continued to use him. How do you know that Monsanto did 1 MR. KRISTAL: Objection.	
2 not continue to use him?2A. Correct.	
3 Is that based on your review of the e-mails 3 Q. Under the "Actions" section, it sta	
4 produced in this litigation? 4 "Complete the MON 35050 study with an	-
5 A. Yes. 5 injection of the MON" M-O-N, "35035 fe	ormulation minus
6 Q. And those e-mails stated that they were no 6 glyphosate."	
7longer using Dr. Parry as of what date?7Do you see that?	
8A. I don't I don't remember, but certainly by8A. Yes.	
9 2003, there was I'm almost sure there was 9 Q. Do you know whether Monsanto o	completed that
10 no essentially no more communication, at least not10 study?	
11 that I've seen in the record.11A. I don't. I don't know if they did or	r not.
	her?
12Q. You're not aware of any publication by12Q. You don't know one way or the of	
12Q. You're not aware of any publication by12Q. You don't know one way or the ot13Dr. Parry suggesting that glyphosate or glyphosate-based13A. Right. Correct.	
	s.
13 Dr. Parry suggesting that glyphosate or glyphosate-based13A. Right. Correct.	
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 13 Dr. Parry suggesting that glyphosate or glyphosate-based 14 formulations were genotoxic; correct? 14 MR. FAYNE: No further questions 15 A. In peer-reviewed a peer-reviewed journal? 16 No. 17 Q. Correct. 18 A. No, I'm not aware of any. 19 Q. Other than the three reports in 1999 that 19 Dr. Parry produced, are you aware of any written study 21 or publication in which Dr. Parry concluded that 22 glyphosate was genotoxic? 23 A. I'm not aware of any. It could exist. 14 MR. FAYNE: No further questions 15 MR. KRISTAL: For housekeeping 16 two minutes of questions. 17 I believe you marked Exhibit the 18 EPA R.E.D. Facts as 28, so the e-mail the 19 been discussing should be 29, so I'll put 2 20 MR. FAYNE: Thank you. I appresed 21 (Exhibit 29 marked for identification in which Dr. Parry concluded that 22 MR. KRISTAL: And I'm assuming 23 A. I'm not aware of any. It could exist. 	g purposes, I have Alachlor at you've just 29 on that. ciate that. ation.) g 28 made its way n do as well. have you

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	Page 342		Page 344
1	MR. KRISTAL: That's mine. We'll make sure for	1	
	housekeeping.	1	the active ingredient, and pesticide product refers to
3	MR. FAYNE: Okay.	3	the formulated or end-use product.
4	MR. KRISTAL: We don't have to delay	4	Q. Okay. So the pesticide, the active ingredient
5	Dr. Benbrook while we do the housekeeping.	5	for Roundup is what?
6	MR. FAYNE: All right. Thank you.	6	A. Glyphosate.
7	MR. KRISTAL: Sure.	7	Q. And the pesticide product is what?
8	THE WITNESS: I'm quite proud of my together	8	A. Roundup and the various brands of Roundup.
9	pile here. I've got 27, 28.	9	Q. Okay. And has Monsanto ever done any
10	MR. KRISTAL: 28 is already on there.	10	
11	THE WITNESS: 29, and that's bingo.	11	product?
12	(Exhibit 23 marked for identification.)	12	A. No, it has not.
13	MR. KRISTAL: Real quick. I marked as	13	Q. Okay. And is that a violation of this industry
14	Exhibit 23 the printout from the Monsanto website that	14	standard that Monsanto itself has adopted?
15	had the link to the International Code of Conduct on	15	MR. FAYNE: Objection. Calls for a legal
	Pesticide Management, and		conclusion.
17	THE WITNESS: That's the missing one.	17	A. It falls short of full compliance with it,
18	MR. KRISTAL: Right.	18	1 , 3
19	MR. FAYNE: Do you mind if I take a quick look	19	Q. And very briefly, Exhibit 28, the Alachlor EPA
	at it?	1	registration facts. It was mentioned that eventually
21	MR. KRISTAL: Sure.		Alachlor was classified as a B2 carcinogen; right?
22	MR. FAYNE: Whenever you're ready.	22	A. Correct.
23	MR. KRISTAL: And Exhibit 23, just before the	23	Q. Okay. But in the history here it says, a
24	link, says, "We subscribe to international stewardship	1	registration standard was issued for Alachlor on
25	standards including the International Code of Conduct on	25	November 20th, 1984, dropping down, "The Registration
	Page 343		Page 345
	1 age 545		rage 545
1	Pesticide Management." And I want to	1	Standard (1) stated that Alachlor was classified as an
1	Pesticide Management." And I want to THE WITNESS: It goes there when it's ready.		6
2 3	Pesticide Management." And I want to THE WITNESS: It goes there when it's ready. MR. KRISTAL: Yep. And I want to follow on		Standard (1) stated that Alachlor was classified as an
2 3 4	Pesticide Management." And I want to THE WITNESS: It goes there when it's ready. MR. KRISTAL: Yep. And I want to follow on Exhibit 21 just in the same section that Mr. Fayne had	2 3 4	Standard (1) stated that Alachlor was classified as an oncogen." Do you see that?A. Yes.Q. And so that was November 20th, 1984, and we saw
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2 3 4 5 6 7 8 9	Pesticide Management." And I want to THE WITNESS: It goes there when it's ready. MR. KRISTAL: Yep. And I want to follow on Exhibit 21 just in the same section that Mr. Fayne had asked you questions. FURTHER EXAMINATION BY MR. KRISTAL: Q. Under Article 4, Testing of Pesticides, Mr. Fayne asked you about Section 4.1.2 in terms of good	2 3 4 5 6 7 8 9	 Standard (1) stated that Alachlor was classified as an oncogen." Do you see that? A. Yes. Q. And so that was November 20th, 1984, and we saw from the 1985 A. '5. Q chemical guide that, very shortly after the finding that it was an oncogen, Monsanto put the warning on the Alachlor products; correct?
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$Case \ 3:16 \text{-m} \underbrace{\text{O27741}}_{\text{Ch}} \underbrace{\text{Case}}_{\text{Ch}} \underbrace{\text{Case}}$

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	Page 346		Page 348
1	MR. KRISTAL: Objection.		going to I thought that's what's you're going to do.
2	A. Correct.	2	MR. KRISTAL: That's fine. We'll do that,
3	So that's your question? You asked you said	3	then. It's no big deal.
4	you were going to ask one question.	4	We will provide to the court reporter an
5	MR. KRISTAL: Yeah. We're beyond seven hours	5	electronic copy of 24, and we'll provide that to you as
6	anyway.	6	well.
7	MR. ESFANDIARY: Counsel	7	MR. FAYNE: That would be great. Thank you.
8	VIDEOGRAPHER: We can go off the record and I	8	MR. KRISTAL: Okay. Fair enough.
9	can let you know.	9	(Whereupon, the deposition of CHARLES
10	MR. FAYNE: That's fine.	10	BENBROOK, Ph.D., was concluded at 6:20 p.m.)
11	THE WITNESS: Are we done?	11	(Exhibit 24 marked for identification.)
12	MR. FAYNE: Yes, we can be done.	12	
13	THE WITNESS: Thank you.	13	
14	VIDEOGRAPHER: This concludes the videotaped	14	
15	deposition of Charles Benbrook, Ph.D. The time is now	15	
16	6:18 p.m. We're going off the record.	16	
17	(Discussion had off the record.)	17	
18	(Off the video record.)	18	
19	MR. KRISTAL: Earlier I had said that I was	19	
20	going to mark as Exhibit 24 the linked International	20	
	Code of Conduct from Exhibit 23, the Monsanto website.	21	
22		22	
	marked as 24, was the 2014 international code, which was	23	
	the same as Exhibit 21.	24	
25	MR. FAYNE: So I	24	
25	MR. FAINE. SOI	25	
	Page 347		Page 349
1	MR. KRISTAL: 24 does not get marked.	1	
2	MR. FAYNE: And I would just say that we did		CERTIFICATE
3	not agree that they're necessarily the same document. I	2	
4	understand that you printed out the linked version,	3	I, AMY J. BROWN, Certified Court Reporter in and
5	but		for the States of Idaho and Washington, Notary Public in
6	MR. KRISTAL: Well, it had the same title. It		and for the State of Idaho, do hereby certify:
7	had the same author. The	6	That the foregoing deposition of CHARLES
8	MD EAVNE. It had a different sever nece. so		DENDDOOK Dh D. was taken December 29, 2018 at the
	MR. FAYNE: It had a different cover page, so		BENBROOK, Ph.D., was taken December 28, 2018, at the time and place bergin stated:
9	as far as I'm concerned, not the same document.	8	time and place herein stated;
9 10		8 9	time and place herein stated; That the witness was first duly sworn to testify
	as far as I'm concerned, not the same document.	8 9 10	time and place herein stated; That the witness was first duly sworn to testify to the truth, the whole truth, and nothing but the truth
10 11	as far as I'm concerned, not the same document. MR. KRISTAL: Right.	8 9 10	time and place herein stated; That the witness was first duly sworn to testify to the truth, the whole truth, and nothing but the truth in the within-entitled cause;
10 11	as far as I'm concerned, not the same document. MR. KRISTAL: Right. MR. FAYNE: I haven't reviewed them in detail	8 9 10 11	time and place herein stated; That the witness was first duly sworn to testify to the truth, the whole truth, and nothing but the truth
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¹ INSTRUCTIONS TO WITNESS	1
2	² ACKNOWLEDGMENT OF DEPONENT
³ Please read your deposition	3
⁴ over carefully and make any necessary	⁴ I, , do
	⁴ I,, do ⁵ hereby certify that I have read the
⁵ corrections. You should state the reason	⁶ foregoing pages, and that the same is
⁶ in the appropriate space on the errata	
⁷ sheet for any corrections that are made.	⁷ a correct transcription of the answers
⁸ After doing so, please sign	⁸ given by me to the questions therein
⁹ the errata sheet and date it.	⁹ propounded, except for the corrections or
	¹⁰ changes in form or substance, if any,
¹⁰ You are signing same subject	¹¹ noted in the attached Errata Sheet.
¹¹ to the changes you have noted on the	12
¹² errata sheet, which will be attached to	13
¹³ your deposition.	14
¹⁴ It is imperative that you	¹⁵ CHARLES BENBROOK, Ph.D. DATE
it is imperative that you	16
¹⁵ return the original errata sheet to the	17
¹⁶ deposing attorney within thirty (30) days	
¹⁷ of receipt of the deposition transcript	¹⁸ Subscribed and sworn
¹⁸ by you. If you fail to do so, the	to before me this
	¹⁹ day of, 20 ²⁰ My commission expires:
¹⁹ deposition transcript may be deemed to be	²⁰ My commission expires:
²⁰ accurate and may be used in court.	21
21	
22	²² Notary Public
23	23
24	24
25	25
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1	1 LAWYER'S NOTES
¹ ERRATA	1 LAWYER'S NOTES 2 PAGE LINE
¹ ERRATA ²	1 LAWYER'S NOTES
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¹ ERRATA ²	1 LAWYER'S NOTES 2 PAGE LINE
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