

UNITED STATES PATENT AND TRADEMARK OFFICE

CASE NO.: IRP2023-00589

US Patent: 11,248,245

VANTAGE SPECIALTY CHEMICALS,
INC.,

Petitioner,

-VS-

CARGILL, INCORPORATED,

Patent Owner.

_____ /

Residence Inn
1430 S Babcock Street
Melbourne, FL 32901

DATE: Tuesday, February 20, 2024
TIME: 9:07 a.m. - 10:55 a.m.

VIDEO DEPOSITION OF DELRIKA CURRY

Taken on behalf of the Petitioner before
Jennifer L. Bush, RPR, Notary Public in and for the State
of Florida at Large, pursuant to Notice of Taking
Deposition in the above cause.

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A P P E A R A N C E S
APPEARING ON BEHALF OF THE PETITIONER:

Eric Lucas, Esquire
Shearman & Sterlin
599 Lexington Avenue
New York, NY 20033
212-848-4955
Eric.lucas@shearman.com

APPEARING ON BEHALF OF THE PATENT OWNER:

Michael Kane, Esquire
Grace Kim, Esquire
Ahmed Davis, Esquire
Casey Kraning, Esquire
Fish & Richardson PC
60 South Sixth Street, Suite
3200
Minneapolis, MN 55402
612-337-2502
Kane@fr.com

Also Present:

Cass Dottridge, Esquire
Daniel Jennings, Videographer

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1 THE VIDEOGRAPHER: Good morning. We're
2 going on the record at 9:07 a.m. on February 20th,
3 2024.

4 Please note that the microphones are
5 sensitive and may pick up whispering and private
6 conversations. Please mute your phones at this
7 time.

8 Audio and video recording will continue to
9 take place unless all parties agree to go off the
10 record.

11 This is Media Unit 1 of the video-recorded
12 deposition of Delrika Curry, taken in the matter
13 of Vantage Specialty Chemicals, Inc., vs. Cargill,
14 Incorporated., filed in the United States Patent
15 and Trademark, Case Number IPR2023-00589.

16 This deposition is being conducted at 1430
17 South Babcock Street, Melbourne, Florida, 32901.

18 The videographer is Daniel Jennings and the
19 court reporter is Jennifer Bush on behalf of
20 Veritext.

21 I'm not authorized to administer an oath, I
22 am not related to any party in this action, nor am
23 I financially interested in the outcome.

24 If there are any objections to proceeding,
25 please state them at the time of your appearance.

1 Counsel and all present, including
2 remotely, will now state their appearances and
3 affiliation for the record.

4 Will the court reporter please swear in the
5 witness and then counsel may proceed.

6 MR. LUCAS: This is Eric Lucas from
7 Shearman & Sterling on behalf of the Petitioner,
8 Vantage Specialty Chemicals, Inc.

9 MR. KANE: This is Michael Kane from Fish &
10 Richardson, representing Cargill, as well as the
11 witness, Mr. Curry.

12 I believe, on Zoom, we have my colleagues
13 Ahmed Davis, Grace Kim and Casey Kraning from Fish
14 & Richardson and Cass Dottridge from Cargill.

15 WHEREUPON,

16 DELRIKA CURRY,
17 called as a witness on behalf of the PETITIONER, after
18 having been first duly sworn, was examined and testified
19 as follows:

20 THE WITNESS: I do.

21 DIRECT EXAMINATION

22 BY MR. LUCAS:

23 Q. Good morning, sir. Would you please state
24 your full name for the record.

25 A. Delrika Aubrando Curry.

1 Q. Is there any reason that you wouldn't be
2 able to testify truthfully today, such as medication or
3 otherwise?

4 A. No.

5 Q. Do you know why you are here today?

6 A. Yes.

7 Q. Why is that?

8 A. To discuss documents related to some
9 declarations that I stated that I would discuss on the
10 retention policy for a certificate of analysis and -- two
11 certificate of analysis and one document on the standard
12 of manufacturing process.

13 Q. Did you do anything to prepare for today's
14 deposition?

15 A. Yes.

16 Q. Without revealing any privileged
17 information, what did you do?

18 A. I had a conversation with internal people
19 to confirm some of my thought process and under- -- on
20 the retention policy and how we handled those things.

21 Q. When you say "internal people," to whom are
22 you referring?

23 A. Referring to people at our facility in our
24 plant.

25 Q. And by that, you mean, employees of

1 Cargill, right?

2 A. Yes.

3 Q. Were any attorneys present when you spoke
4 with those folks at Cargill?

5 A. Yes.

6 Q. What attorneys were present?

7 A. Mike and Jenny.

8 Q. When did that conversation take place?

9 A. Last week.

10 Q. Approximately, for how long did you speak
11 to the folks at Cargill?

12 A. About 30 minutes.

13 Q. What were the names of those individuals
14 with whom you spoke?

15 A. Lynn Freed, Ryan Quinn and Jeff Addy.

16 Q. What is Lynn Freed's position at Cargill?

17 A. She is the product line manager for the
18 Americas.

19 Q. When was Lynn Freed hired at Cargill?

20 A. I don't know the answer to that. I don't
21 know the answer.

22 Q. Do you know whether it was prior to the
23 acquisition of International Flora Technologies?

24 A. Yes.

25 Q. Was Lynn Freed employed at International

1 Flora Technologies?

2 A. Yes.

3 Q. And the second individual you mentioned was
4 Brian Winn?

5 A. Ryan --

6 Q. Ryan Quinn.

7 A. -- Quinn.

8 Q. Apologies. Ryan Quinn.

9 Was Mr. Quinn an employee of International
10 Flora Technologies prior to being an employee of Cargill?

11 A. Yes.

12 Q. Same with Mr. Addy, right?

13 A. Yes.

14 Q. Did you speak with any of those individuals
15 before you executed your declaration in this IPR?

16 A. In --

17 MR. KANE: Objection, vague.

18 THE WITNESS: Can you be more specific
19 about the question as it relates to time, subject
20 matter, et cetera?

21 BY MR. LUCAS:

22 Q. Sure.

23 You testified earlier that you submitted a
24 declaration in support of this IPR, right?

25 A. Yes.

1 Q. Did you speak to any of those individuals
2 about document retention policies prior to signing the
3 declaration that we're talking about today?

4 A. So as part of my normal understanding of a
5 business, I typically would have conversations about many
6 business practices, so I've had many conversations with
7 many of these individuals on a variety of topic -- topics
8 related to understanding and including business practices
9 and business standards.

10 Q. Did you -- my question was a little bit
11 different.

12 Did you speak to any of those individuals
13 about document retention policies prior to signing your
14 declaration that's the subject of today's deposition?

15 A. I have had several conversations with them
16 about document retentions in general because that's part
17 of my process.

18 Q. Did you speak with them specifically about
19 the document retention policies that you've discussed in
20 this declaration before you signed this declaration?

21 A. No.

22 MR. KANE: Objection, vague.

23 BY MR. LUCAS:

24 Q. "No," right?

25 A. No.

1 Q. Okay. You understand that this is a
2 deposition in an inter partes review in which the
3 validity of U.S. Patent No. 11,248,245 is at issue?

4 A. Yes.

5 MR. LUCAS: First exhibit we'll mark as
6 Curry 1, was previously marked Cargill 2049.

7 (Curry Exhibit 1, Declaration of Delrika
8 Curry, was marked for identification.)

9 BY MR. LUCAS:

10 Q. Do you recognize this document, Mr. Curry?

11 A. Yes, I do.

12 Q. What is it?

13 A. It is a declaration that I signed outlining
14 all the points, bullets 1 through 9, concerning previous
15 employment, what my current position is, et cetera.

16 Q. One through 10, right?

17 A. Ten, sorry, one through 10.

18 Q. You understand that Cargill submitted this
19 declaration in the IPR as an exhibit to its patent
20 owner's response, right?

21 MR. KANE: Objection, lack of foundation.

22 THE WITNESS: Could you rephrase the
23 question?

24 BY MR. LUCAS:

25 Q. Do you know whether or not Cargill

1 submitted this declaration that you signed in connection
2 with its patent owner's response?

3 A. Yes.

4 Q. Have you seen a copy of the patent owner's
5 response?

6 A. No.

7 Q. Have you seen -- other than the three
8 documents that you discuss in this declaration, have you
9 seen any of the other exhibits to the patent owner's
10 response?

11 A. No.

12 Q. Looking at the second page of your
13 declaration, did you write paragraph 10?

14 (Witness reviews document.)

15 A. No.

16 BY MR. LUCAS:

17 Q. What does paragraph 10 say?

18 A. Do you want me to read it?

19 Q. I do.

20 A. "I declare under penalty of perjury under
21 the laws of the United States of America that the
22 foregoing is true and correct.

23 I understand that willful false statements
24 and alike are punishable by a fine or imprisonment or
25 both and may jeopardize the validity of Patent Number

1 U.S. 11,248,245 or related patents."

2 Q. Is that your signature underneath
3 paragraph 10?

4 A. Yes.

5 Q. Did you sign this declaration with a pen
6 and scan it?

7 A. Yes.

8 Q. Where did you sign the declaration?

9 A. In my home office.

10 Q. And where is that?

11 A. Merritt Island, Florida.

12 Q. What's the date listed next to your
13 signature?

14 A. December 5th, 2023.

15 Q. Turning back to the first page of your
16 declaration, is it true what you say in paragraph 1, that
17 you made the declaration based on your personal
18 knowledge?

19 A. Yes.

20 Q. Approximately, when was the first time
21 someone reached out to you regarding potentially drafting
22 this declaration for submission of the IPR?

23 A. I don't recall the date.

24 Q. That would have been before December 5th,
25 2023, right?

1 A. Yes.

2 Q. Can you recall approximately if it was
3 within a couple weeks of that date?

4 A. I don't recall.

5 Q. So it could have been six months before
6 that or the day before.

7 You just don't recall?

8 A. I don't recall.

9 Q. Do you recall who reached out to you?

10 A. Yes.

11 Q. Who was that?

12 A. Jenny from our Cargill legal team.

13 Q. And how did Jenny contact you regarding the
14 potential submission of this declaration?

15 A. I believe it was through e-mail and then a
16 follow-up phone call.

17 Q. And at a high level, what did Jenny
18 describe when she was asking you to do this?

19 MR. KANE: Yeah. I'd just caution the
20 witness not to disclose any specific -- you know,
21 very specific information. As he said, just "at a
22 very high level."

23 THE WITNESS: "High level," I sent you an
24 e-mail. This is the gist of what it contains in
25 the e-mail and you should review it and then sign

1 it.

2 BY MR. LUCAS:

3 Q. So Jenny provided you a copy of the
4 declaration in the e-mail?

5 A. Yes.

6 Q. Were there any other attachments to her
7 e-mail besides the declaration?

8 A. I don't recall.

9 Q. So you don't recall one way or the other if
10 Jenny attached Exhibits 2012, 2013, 2014 to that e-mail?

11 A. I don't recall. It's been months since
12 I've...

13 Q. Is it possible that she did attach those
14 documents?

15 A. I don't -- I don't recall.

16 Q. Did you change any of the text in this
17 declaration before signing it?

18 A. No.

19 Q. So Jenny was the one who wrote this
20 declaration, right?

21 A. I don't know.

22 Q. But Jenny provided this declaration to you
23 and you signed it as it was, right?

24 A. Yes.

25 Q. The only thing that you did was sign your

1 name and scan it in and send it back to her, right?

2 MR. KANE: Objection, misstates the
3 testimony.

4 THE WITNESS: I just signed it, sent it
5 back.

6 BY MR. LUCAS:

7 Q. Between the time that Jenny sent you the
8 draft declaration and you signed it, did you speak with
9 anyone else at Cargill about the declaration?

10 A. No.

11 Q. In paragraph 2 of the declaration, you say
12 that you're the sales director, Beauty Care, at Cargill
13 BioIndustrial, right?

14 A. Yes.

15 Q. Is Cargill BioIndustrial a company?

16 A. It is a division of Cargill.

17 Q. So it is not a separate legal entity; it is
18 just a division of the company?

19 MR. KANE: Objection, lack of foundation.

20 THE WITNESS: Can you rephrase the
21 question?

22 BY MR. LUCAS:

23 Q. Is Cargill BioIndustrial a separate company
24 from Cargill, Inc.?

25 MR. KANE: Same objection.

1 THE WITNESS: Would you rephrase the
2 question?

3 BY MR. LUCAS:

4 Q. What don't you understand about the
5 question?

6 A. I'm not sure what the question really is
7 trying to get to.

8 Q. Is Cargill, Inc. a parent company of
9 Cargill BioIndustrial?

10 A. Yes, I guess you could phrase it that way.
11 But it is just the division that's part of Cargill.

12 Q. Okay. Why did you define Cargill as
13 "Cargill BioIndustrial" in paragraph 2?

14 A. I didn't write the declaration, so you
15 would have to ask --

16 Q. The person who wrote it?

17 A. -- the person who wrote it.

18 Q. Okay. Is that true, though, is paragraph 2
19 true?

20 A. Yes.

21 Q. The person who wrote this declaration
22 listed your business address in the second sentence of
23 paragraph 2, right?

24 A. Yes.

25 Q. What's the address that the person who

1 wrote this declaration listed in paragraph 2?

2 A. I don't know who wrote it, so I do know
3 that the legal of -- employees are located -- some of
4 them are located in Minnesota at that location.

5 Q. Sorry, I'm asking a different question.

6 A. What, what?

7 Q. Which is: What is the address that the
8 person who wrote this declaration listed in paragraph 2?

9 A. Oh, what is it?

10 Q. Yes.

11 A. Yes. PO Box 9300, Minneapolis, Minnesota
12 44550-9300.

13 Q. Can you type that address into Google Maps
14 and get a location of your business address?

15 MR. KANE: Objection, lack of foundation.

16 THE WITNESS: I haven't typed it in, so I
17 couldn't tell you.

18 BY MR. LUCAS:

19 Q. Do you know if that's actually your
20 business address?

21 MR. KANE: Objection, vague.

22 THE WITNESS: Again, what is the -- what
23 are we trying to get to for -- for this? We --
24 we -- we -- what are you trying to get -- I mean,
25 what's the -- the point?

1 BY MR. LUCAS:

2 Q. Yeah. I want to know if this sentence is
3 true or not.

4 A. I believe it is true, yes.

5 Q. So your business address is Cargill, Inc.,
6 PO Box 9300, Minneapolis, Minnesota 55440-9300?

7 A. It is one of many addresses because there
8 are different facilities in Minneapolis.

9 Q. This says, "My business address is..."
10 Is that your business address?

11 A. Yes. It is my business address but,
12 technically, I live in Merritt Island, so any
13 correspondence that I would have directed to me would be
14 in Merritt Island.

15 Q. So this is an actual address that somebody
16 can go to in Minneapolis, Minnesota, right?

17 MR. KANE: Objection, lack of foundation.

18 THE WITNESS: I have not driven to that PO
19 Box address, so I could not state that that is an
20 address that you could find, nor have I entered it
21 in Google.

22 BY MR. LUCAS:

23 Q. There is not even a street address listed,
24 right?

25 A. No street address.

1 Q. So you don't really know one way or the
2 other whether this is your business address or not, do
3 you?

4 MR. KANE: Objection, misstates the
5 testimony.

6 THE WITNESS: It is our address where we
7 receive correspondence.

8 BY MR. LUCAS:

9 Q. No street address, just a PO Box, right?

10 A. Yes.

11 Q. Okay.

12 A. That is correct.

13 Q. And you just told me that you're a remote
14 employee, right?

15 A. Yes.

16 Q. So you don't actually work in Minneapolis,
17 Minnesota?

18 MR. KANE: Objection, vague.

19 THE WITNESS: So could you give me more
20 clarity on the question?

21 BY MR. LUCAS:

22 Q. You spend the majority of your time working
23 for Cargill, working in your home office in Merritt
24 Island, Florida, right?

25 A. That is not correct.

1 Q. Where do you spend the majority of your
2 time working for Cargill?

3 A. Through the Americas.

4 Q. Do you spend the majority of your time
5 working for Cargill in Minneapolis, Minnesota?

6 A. No.

7 Q. When was the last time you were up in
8 Minneapolis?

9 A. September of last year.

10 Q. Was that for our deposition in the District
11 Court case?

12 A. Yes.

13 Q. So you haven't been back since?

14 A. No.

15 Q. You were first hired at Cargill in
16 January 2023, right?

17 A. Yes.

18 Q. Prior to January 2023, you didn't work at
19 Cargill or any Cargill subsidiary, right?

20 A. No, I did not.

21 Q. And you've never worked in your life for
22 International Flora Technologies, right?

23 A. That's correct.

24 Q. You say, in paragraph 5, that you have
25 become familiar with the history of Floratech, right?

1 A. Yes.

2 Q. Well, whoever wrote this declaration wrote
3 that, right?

4 MR. KANE: Objection, argumentative.

5 THE WITNESS: Yes.

6 BY MR. LUCAS:

7 Q. In paragraph 5, you don't say that you have
8 personal knowledge of the history of Floratech, do you?

9 MR. KANE: Objection, vague.

10 THE WITNESS: Could you give me some more
11 clarity on the question?

12 BY MR. LUCAS:

13 Q. The words "personal knowledge" don't appear
14 in paragraph 5, do they?

15 A. No, they do not.

16 Q. Instead, it says, you have become familiar
17 with the history of Floratech, doesn't it?

18 A. Yes.

19 Q. So you don't have personal knowledge of the
20 history of Floratech, do you?

21 MR. KANE: Objection, vague.

22 THE WITNESS: What type of knowledge are
23 you asking about? Could you rephrase the --

24 BY MR. LUCAS:

25 Q. Well, you were never employed at Floratech,

1 were you?

2 A. No.

3 Q. And you didn't personally witness anything
4 that ever went on at the company, right?

5 A. In what time period?

6 Q. Prior to the acquisition of Floratech by
7 Cargill.

8 A. No.

9 Q. So you don't have personal knowledge of the
10 history of Floratech, right?

11 A. How do you define "personal knowledge"?

12 Q. Well, you just told me you weren't there.

13 A. Yes.

14 Q. And you didn't witness anything personally.

15 A. Correct.

16 Q. So you don't have personal knowledge of the
17 history of Floratech, do you?

18 A. Depends on how you define "personal
19 knowledge."

20 If you have a broader, then, based on
21 conversations and historical data, then I have my
22 personal knowledge on that information.

23 Q. And you mean that you learned it from
24 someone else and it became knowledge that that is yours,
25 right?

1 A. Yes.

2 Q. But you don't have any first-hand
3 knowledge?

4 A. No.

5 Q. Right.

6 How did you become familiar with the
7 history of Floratech?

8 A. Through my research in looking at the
9 documents as I reviewed sales reports, as I talked to
10 people when I began my first monter at Cargill.

11 Q. Did you speak to anyone about the history
12 of Floratech?

13 A. Yes.

14 Q. With whom did you speak?

15 A. Employees within Cargill.

16 Q. Which employees?

17 A. They are no longer with the organization, a
18 few of them. They were sales team members of mine and
19 then also people that are still with Cargill.

20 Q. Let's time limit this to prior to when you
21 signed this declaration.

22 A. (Nodding head yes.)

23 Q. Please list the individuals with whom you
24 spoke about the history of Floratech.

25 MR. KANE: Objection, vague.

1 THE WITNESS: Could you give me clarity on
2 what information that I talked to -- to people
3 about?

4 BY MR. LUCAS:

5 Q. Well, you say you -- you've become familiar
6 with the history of Floratech and you testified that you
7 spoke to several individuals about the history of
8 Floratech.

9 And I just want a list of the individuals
10 with whom you spoke prior to signing this declaration.

11 A. In what context so that I can give you the
12 context?

13 Q. The context that you meant when you signed
14 this declaration that says, "I've become familiar with
15 the history of Floratech."

16 A. Lynn Freed.

17 Q. You spoke to Lynn prior to signing this
18 declaration about the history of Floratech?

19 A. Yes.

20 Q. Okay.

21 A. Sean Juist, he's no longer with the
22 organization. Gentry Kinsella, again, no longer with the
23 organization. Cindy Peterson.

24 Shall I go on --

25 Q. Please.

1 A. -- 'cause it -- it is quite an extensive
2 list.

3 Also Courtney Clay, Tiffany Quinn, Suta
4 Fruitel (Phonetic), Mellanie Garner, a Maureen Iannucci.
5 Let's see. Jeff Addy, Kathleen Rex- -- Rexenroad --
6 Rexroade, to name a few.

7 There are others, but I don't want to
8 exhaust the list, to exhaust you with ten more people.

9 Q. So you became familiar with the history of
10 Floratech through someone else's knowledge, right?

11 A. Yes.

12 Q. In paragraph 5, you go on to say:

13 "Specifically, I'm familiar with review and
14 maintenance of archival copies of historical Floratech
15 documents."

16 Right?

17 A. Yes.

18 Q. With whom did you speak about the review
19 and maintenance of archival copies of historical
20 Floratech documents?

21 A. Lynn Freed, Ryan Quinn, Jeff Addy.

22 Q. You spoke to Lynn Freed, Ryan Quinn, and
23 Jeff Addy about the review and maintenance of archival
24 copies of historical Floratech documents after you signed
25 your declaration, right?

1 A. So I talked to them to confirm what I had
2 found out in prior conversations.

3 Q. When was the first time that you spoke to
4 someone about the review and maintenance of archival
5 copies of historical Floratech documents?

6 A. I don't recall. I had many conversations
7 with people early on in my review of the business. It's
8 a normal business practice for me to do so, to understand
9 how we do those things.

10 Q. But you didn't speak with any of those
11 individuals specifically about the document retention
12 policies that you discussed in this declaration before
13 you signed the declaration, right?

14 MR. KANE: Objection, misstates the
15 testimony and the document.

16 THE WITNESS: So again, I had conversations
17 early on when I first started on many procedures
18 and business standards as I went through the
19 evaluation of, how do we do business.

20 BY MR. LUCAS:

21 Q. I asked you earlier:

22 "Did you speak with them specifically about
23 the document retention policies that you discussed in
24 this declaration before you signed this declaration?"

25 And you said no.

1 A. Specifically to these three documents.
2 But, in general, I've had conversations with people about
3 standard business practices so that I can understand how
4 we do things from a Cargill perspective.

5 Q. But with these specific documents, the
6 answer is still no, right? You are not changing that
7 testimony?

8 A. That is correct.

9 Q. In paragraph 5, what do you mean by the
10 word "review" when you say, "you are familiar with the
11 review of archival copies of historical Floratech
12 documents"?

13 A. It's the process of how they review them,
14 the process of how they approve them and the process of
15 how they retain them.

16 Q. How do you become familiar with the review
17 of archival copies of historical Floratech documents?

18 A. I discussed with the appropriate personnel,
19 Lynn and Ryan, on how that review process occurs.

20 Q. And with these specific documents that
21 occurred after you signed your declaration, right?

22 A. Yes; that's correct.

23 Q. Currently, where are archival copies of
24 historical Floratech documents maintained?

25 A. Depends --

1 MR. KANE: Objection, vague.

2 THE WITNESS: Depends on what you mean
3 by -- which group, every group, depends on who you
4 are talking to. So in these particular documents,
5 they are maintained at the production facility.

6 BY MR. LUCAS:

7 Q. In what format are these specific documents
8 maintained at the production facility?

9 A. Hardcopy and scanned.

10 Q. Currently, who has access to archival
11 copies of historical Floratech documents?

12 MR. KANE: Lack of foundation.

13 THE WITNESS: So could you be a little bit
14 more specific about -- what do you mean by, "who
15 has"? Is it --

16 BY MR. LUCAS:

17 Q. Does anyone at the company have access
18 historical Floratech documents?

19 A. No.

20 Q. Who has access to historical Floratech
21 documents?

22 A. It would be personnel at the plant, and I
23 can gain access through them. But I don't have personal
24 access to be able to...

25 Q. So you didn't go to the plant to get these

1 documents that you are talking about in the declaration,
2 right?

3 A. No.

4 Q. You didn't go to the plant and look at the
5 hardcopies of those documents, did you?

6 A. No.

7 Q. You didn't go to the plant and scan
8 hardcopies of those documents into a computer, did you?

9 A. No.

10 Q. You didn't go to the plant to verify if the
11 documents that you were sent are the actual ones that are
12 in archives, did you?

13 A. No.

14 Q. Someone sent those documents to you, right?

15 A. Yes.

16 Q. Do you know who it was?

17 A. Yes.

18 Q. Who was it?

19 A. Should have come through Jenny, who came
20 through the production people at the plant.

21 Q. So someone at the plant sent the documents
22 to Jenny, right?

23 A. (Nodding head yes.)

24 Q. And then Jenny sent the documents to you,
25 right?

1 A. Yes.

2 Q. Do you know who at the plant sent the
3 documents to Jenny?

4 A. No, I do not know.

5 Q. So it could have been anybody at the plant
6 who is employed at Cargill, right?

7 MR. KANE: Objection, lack of foundation.

8 THE WITNESS: I don't know but I can tell
9 you, based on my knowledge of the retention
10 policy, the quality group has access to that and
11 only certain personnel have access to that.

12 BY MR. LUCAS:

13 Q. So someone who you don't know in the
14 quality group gathered these documents and sent them to
15 Jenny, right?

16 MR. KANE: Objection, lack of foundation.

17 THE WITNESS: Again, I -- I cannot answer
18 that question.

19 BY MR. LUCAS:

20 Q. Because you don't know who it was, right?

21 A. Just can't answer the question.

22 Q. Sorry, do you know who gathered the
23 documents at the plant and sent them to Jenny?

24 A. No.

25 Q. How did historical Floratech documents get

1 transferred to Cargill's possession?

2 A. They are on a database that we have at the
3 plant and all of that access is available for Cargill,
4 quality recordatory team.

5 Q. And what about hardcopy documents?

6 A. Those are still at the -- at the plant.

7 Q. How did the hardcopy documents get from
8 Floratech's facilities to Cargill's?

9 A. They are still at Floratech facility
10 because it is a Cargill facility.

11 Q. I see.

12 So Cargill purchased the Floratech facility
13 and the documents remained there?

14 A. Yes; that is correct.

15 Q. I see. Okay.

16 In paragraph 5, you go on to say:

17 "These documents include certificates of
18 analyses for Floratech's jojoba wax esters products,
19 including but not limited to, Floraesters 15, Floraesters
20 20, Floraesters 30, Floraesters 60, and Floraesters 70."

21 Right?

22 A. Yes.

23 Q. Are you saying that there are archived
24 copies of certificates of analyses for each of
25 Floraesters 15, Floraesters 20, Floraesters 30,

1 Floraesters 60, and Floraesters 70?

2 A. Yes.

3 Q. Do you personally know that there are
4 archived copies of certificates of analysis for
5 Floraesters 30?

6 A. Based on our business practices and what
7 we've outlined, they should be available. They are
8 available.

9 Q. You've never seen them though, right?

10 A. No.

11 Q. That's because you've never been to the
12 plant where they are archived and stored, right?

13 A. I have been to the plant.

14 Q. But you've never looked for any
15 certificates of analysis for Floraesters 30 at the plant?

16 A. I have seen C of A's based on customer
17 requests or any research that I may need to do.

18 Q. Sorry, you said that you have never seen
19 certificates of analysis for Floraesters 30, right?

20 A. No, what I'm saying is, I -- I know they
21 are available; and if I need to do research to find
22 information based on a customer request, I can get that
23 access.

24 Q. But you've never seen a certificate of
25 analysis for Floraesters 30, right?

1 A. Not that I recall.

2 Q. And you haven't seen any certificate of
3 analysis for Floraesters 60, have you?

4 MR. KANE: Objection, lack of foundation.
5 Vague.

6 THE WITNESS: Could you give me more
7 clarity and specification on specificity on that?

8 BY MR. LUCAS:

9 Q. Have you ever seen a certificate of
10 analysis for Floraesters 60?

11 A. Not that I recall.

12 Q. And there aren't any certificates of
13 analysis for Floraesters 30 attached to this declaration,
14 right?

15 A. No.

16 Q. And there weren't any certificates of
17 analysis for Floraesters 60 attached to the declaration,
18 are there?

19 A. No.

20 Q. Why not?

21 A. I don't know.

22 Q. You don't know because you didn't write the
23 declaration, right?

24 A. No, I did not write the declaration.

25 Q. Someone else picked the documents that are

1 included in here for you, right?

2 A. I don't know.

3 Q. Let's move on to paragraph 6. You say:

4 "Exhibit 2012 is a true and correct copy of
5 the certificate of analysis of Floratech's Floraesters 15
6 product with Lot Number FELM35, signed and dated
7 February 26th, 2004."

8 Right?

9 A. Yes.

10 Q. So starting with the date, February 26th,
11 2004, that's about 20 years ago, right?

12 A. Yes.

13 Q. For what company did you work in February
14 of 2004?

15 A. February of 2004, I was with the GE
16 business, the silicone business.

17 Q. You weren't with Cargill then?

18 A. No.

19 Q. And you weren't with Floratech then?

20 A. No.

21 Q. Can you explain what Lot Number FELM35
22 means?

23 A. No, I cannot.

24 Q. In 2004, how many lots of Floraesters 15
25 did Floratech manufacture?

1 A. Do not know.

2 Q. Am I right that a certificate of analysis
3 is only applicable to a single lot?

4 A. Yes.

5 Q. How do you know that?

6 A. Because of the way the specifications are
7 written and ran on that specific lot of material, it is
8 only created for that specific lot.

9 Q. Do you know whether Floratech manufactured
10 more than one lot of Floraesters 15 in 2004?

11 A. I do not know.

12 Q. If there was more than one lot of
13 Floraesters 15 manufactured in 2004, there would have to
14 be a different certificate of analysis, right?

15 A. Yes.

16 Q. So there would be a unique certificate of
17 analysis for each lot of Floraesters 15?

18 A. Yes.

19 Q. In paragraph 6, you go on to say that:

20 "This certificate of analysis was made at
21 or near the time Lot Number FELM35 was tested by a person
22 who had knowledge of the testing."

23 Right?

24 A. Yes.

25 Q. You weren't in the room when the

1 certificate of analysis was made, right?

2 A. No.

3 Q. You weren't in the room when Lot Number
4 FELM35 was tested, were you?

5 A. No.

6 Q. So you don't have personal knowledge of the
7 testing of Lot Number FELM35, do you?

8 A. I have personal knowledge of the business
9 practices that we incorporated in order to manage this
10 process.

11 Q. But you don't have personal knowledge of
12 the testing of Lot Number FELM35, do you?

13 A. Again, I have personal knowledge of how the
14 process is done and that is the standard business process
15 that Cargill uses to test those lots.

16 Q. How did you come to understand that this
17 certificate of analysis was made at or near the time Lot
18 Number FELM35 was tested by a person who had knowledge of
19 the testing?

20 A. This is standard procedure for us, to
21 create the C of A, and then have it signed and documented
22 on the date that it was created. And then stamped as a
23 second level with that information and stating that it
24 was a retained document that would be used for business
25 retention purposes.

1 Q. And that was something that you learned
2 from your conversation with Lynn Freed and Ryan Quinn and
3 Jeff Addy, right?

4 A. It was my conversation that I learned as I
5 did my research for this --

6 Q. That's a "yes"?

7 A. -- information.

8 Yes.

9 Q. In paragraph 6, you go on to say that:
10 "Floritech regularly prepared certificates
11 of analyses, its Floraesters products, as part of its
12 regular practice of conducting testing on its Floraesters
13 products prior to releasing a batch for sale."

14 Right?

15 A. Yes.

16 Q. How often would Floritech prepare
17 certificates of analysis for Floraesters 15?

18 A. With every lot that they produced for sale.

19 Q. And you weren't in the room when any of
20 those certificates of analyses were made, were you?

21 A. No.

22 Q. You weren't in the room when any of the
23 lots of Floraesters 15 were tested, were you?

24 A. No.

25 Q. You came to understand that Floritech

1 regularly prepared certificates of analyses of its
2 Floraesters products as part of its regular practice of
3 conducting testing on its Floraesters products prior to
4 releasing a batch for sale from your conversations with
5 Lynn Freed, Ryan Quinn and Jeff Addy?

6 A. That was my confirmation discussion with
7 them.

8 Q. So that's a "yes," right?

9 A. That's my confirmation discussion with
10 them.

11 Q. So that's a "yes," right?

12 MR. KANE: Objection, asked and answered.

13 THE WITNESS: It's my confirmation
14 discussion with them.

15 BY MR. LUCAS:

16 Q. They are the ones that told you that,
17 right?

18 A. It is my confirmation discussion with them.

19 Q. You don't know for sure, one way or the
20 other, whether Floratech prepares certificates of
21 analysis for each and every lot of Floraesters 15, do
22 you?

23 A. So based off of standard protocol and ISO
24 certification and governmental bodies that govern these
25 types of things, it is a requirement for us to be able to

1 keep these record retentions.

2 If we do not keep those record retentions,
3 that creates major audit issues. So I know that based on
4 those parameters, we have to follow these business
5 practices. If we don't follow those business practices,
6 it's some major issue.

7 Q. But you haven't seen the certificates of
8 analysis, have you?

9 A. For?

10 Q. For each and every lot of Floraesters 15.

11 A. No.

12 Q. Okay.

13 MR. LUCAS: Let's mark our second exhibit.

14 Curry Exhibit 2.

15 (Curry Exhibit 2, Certificate of Analysis,
16 Floraesters 15, was marked for identification.)

17 BY MR. LUCAS:

18 Q. Mr. Curry, is this a copy of the
19 Exhibit 2012 that you are referring to in paragraph 6?

20 A. Yes.

21 Q. This was originally a hardcopy document,
22 right?

23 A. Yes.

24 Q. And you told me earlier you didn't see the
25 original hardcopy of this document, right?

1 A. Yes.

2 Q. You saw an electronic copy of it that Jenny
3 sent you, right?

4 A. Yes.

5 Q. Near the bottom of the page there is a
6 section that says, "Name: David Ashley."

7 Do you see that?

8 A. Yes.

9 Q. Who is David Ashley?

10 A. He was in our quality group. He's no
11 longer with the organization.

12 Q. Have you ever spoken to David Ashley
13 before?

14 A. No.

15 Q. Are you able to vouch for the accuracy of
16 the certificate of analysis?

17 MR. KANE: Objection, vague.

18 THE WITNESS: So what do you mean by
19 "vouch"? Can you rephrase the question?

20 BY MR. LUCAS:

21 Q. Can you swear under oath that this
22 certificate of analysis is accurate?

23 A. I can affirm, based on the business
24 practices that we have instituted and continue to abide
25 by, that this certificate of analysis is correct.

1 Q. You can't personally affirm that this
2 certificate of analysis is correct, right?

3 A. I did not run the test. Another lab person
4 runs the test.

5 Based on our protocol, all of those
6 parameters would have been checked, double checked and
7 triple checked, which is denoted by the signatures of
8 David and notified by the signature and staff by Jamie.

9 So based on those protocols, it is my high
10 assurance that this information is correct.

11 Q. But you can't personally affirm that the
12 certificate of analysis is correct, can you?

13 A. As stated, I can base it off of the
14 business practices that we've instituted, the
15 certification process that we've gone through, the
16 business ethics that we'd adhere to, this information is
17 correct.

18 Q. You know that when David Ashley put
19 together this certificate of analysis, it wasn't correct,
20 right? You know there was a mistake in it, right?

21 A. I cannot attest or say anything related to
22 what happened during that time.

23 What are you referring to, what's the --

24 Q. Well, you can look at the face of the
25 document and see that Jamie made a correction to it.

1 MR. KANE: Objection, lack of foundation.

2 THE WITNESS: Can you be a little bit more
3 specific on what you're trying to get into?

4 BY MR. LUCAS:

5 Q. Sure.

6 Do you see the column "Actual"?

7 A. Yes.

8 Q. And do you see some handwriting on the page
9 to the right underneath that?

10 A. Yes.

11 Q. And do you see a line crossing out a number
12 next to the handwriting?

13 A. I see a line through it, yes.

14 Q. So someone corrected this value and put
15 their initials next to it, right?

16 A. I see a line through it and I see a
17 signature.

18 You would have to discuss that with Jamie
19 because that person made that signature and that
20 statement, that signature there and made that line there.

21 Q. So based off of this document, when David
22 Ashley created the certificate of analysis, it was
23 inaccurate, right?

24 MR. KANE: Objection, lack of foundation.

25 THE WITNESS: You, again, would have to go

1 talk to David and Jamie and discuss this in
2 specifics with them.

3 BY MR. LUCAS:

4 Q. Because they are the ones who have personal
5 knowledge of this certificate of analysis, right?

6 A. They are the ones who created the
7 certificate of analysis.

8 Q. Right.

9 Was this certificate of analysis provided
10 to anyone outside of Floratech and Cargill?

11 MR. KANE: Objection, lack of foundation.

12 THE WITNESS: Can you be more specific
13 about the question?

14 BY MR. LUCAS:

15 Q. Was this certificate of analysis provided
16 to a customer of Floratech or Cargill?

17 A. I don't know.

18 Q. Okay. Let's move on to paragraph 7 of your
19 declaration.

20 A. (Witness complies.)

21 Q. You say:

22 "Exhibit 2013 is a true and correct copy of
23 the certificate of analysis of Floratech's Floraesters 20
24 product with Lot Number FEME08, signed and dated
25 September 1st, 2004."

1 Right?

2 A. Yes.

3 Q. Again, you weren't at Floratech when the
4 certificate of analysis was created, were you?

5 A. No.

6 Q. Can you explain what Lot Number FEME08
7 means?

8 A. No.

9 Q. In 2004, how many lots of Floraesters 20
10 did Floratech manufacture?

11 A. I cannot tell you that because that would
12 be an answer from a production person.

13 Q. Someone with personal knowledge would have
14 to tell me that, right?

15 MR. KANE: Objection, lack of foundation.
16 Vague.

17 THE WITNESS: Someone from production would
18 be able to answer that question for you.

19 BY MR. LUCAS:

20 Q. Someone with personal knowledge of the
21 production would have to tell me that, right?

22 MR. KANE: Objection, misstates the
23 testimony.

24 THE WITNESS: Someone from production would
25 be able to give you the answer for that question.

1 BY MR. LUCAS:

2 Q. But you can't give me the answer, can you?

3 A. Someone from production can, though.

4 Q. The answer is "no," you can't give me the
5 answer, right?

6 A. Someone from production can give you that
7 answer.

8 Q. But you cannot, can you?

9 A. Someone from production can you give you
10 that answer.

11 Q. Are you in production?

12 A. No, I'm not in production.

13 Q. So you can't give me an answer; someone in
14 production can, right?

15 A. Someone in production can give you that
16 answer.

17 Q. Right.

18 And again, I'm right that a certificate of
19 analysis is only applicable to a single lot, right?

20 A. That is correct.

21 Q. So there would be a unique certificate of
22 analysis for each lot of Floraesters 20, right?

23 A. That is correct.

24 Q. Paragraph 7, you go on to say:

25 "This certificate of analysis was made at

1 at or near the time Lot Number FEME08 was tested by a
2 person who had knowledge of the testing."

3 Right?

4 A. Yes.

5 Q. You weren't in the room when the
6 certificate of analysis was made, right?

7 A. No.

8 Q. You weren't in the room when Lot Number
9 FEME08 was tested, were you?

10 A. No.

11 Q. You came to the understanding that the
12 certificate of analysis was made at or near the time Lot
13 Number FEME08 was tested by a person who had knowledge of
14 the testing from your conversation with Lynn Freed, Ryan
15 Quinn, and Jeff Addy, right?

16 MR. KANE: Objection, misstates testimony.

17 THE WITNESS: I stated earlier, it was my
18 confirmation discussion with Lynn and Ryan and
19 Jeff.

20 BY MR. LUCAS:

21 Q. And that conversation happened after you
22 signed the declaration, right?

23 A. Yes.

24 Q. Paragraph 7, you go on to say that:

25 "Floratech regularly prepared certificates

1 of analyses, its Floraesters products, as part of its
2 regular practice of conducting testing on its Floraesters
3 products prior to releasing a batch for sale."

4 MS. REPORTER: One more time on that.

5 Sorry.

6 BY MR. LUCAS:

7 Q. "Floritech regularly prepared certificates
8 of analyses, its Floraesters products, as part of its
9 regular practice of conducting testing on its Floraesters
10 products prior to releasing a batch for sale."

11 How often would Floritech prepare
12 certificates of analyses for Floraesters 20?

13 A. For every lot that was produced.

14 Q. And you weren't in the room when any of
15 those certificates of analyses were created, right?

16 A. The appropriate personnel were in the room.

17 Q. You weren't, though, were you?

18 A. I was not in the room.

19 Q. You weren't in the room when they were
20 tested either, were you?

21 A. No.

22 Q. And you haven't seen each and every
23 certificate of analysis for Floraesters 20, have you?

24 A. No, that's not my responsibility. That's
25 production's responsibility, to make sure that -- and

1 quality, to produce a certificate of analysis for every
2 batch that's created.

3 Q. It's the responsibility of someone with
4 personal knowledge of the creation of the batches, right?

5 A. That's just someone who has the
6 responsibility of creating the C of A.

7 Q. Right.

8 In paragraph 7, you go on to say that:

9 "Floratech, and now Cargill, keeps these
10 certificates of analyses, including the certificate of
11 analysis in Exhibit 2013, as part of its regular business
12 activities."

13 Right?

14 A. Yes.

15 Q. And these certificates of analyses are kept
16 at the plant in Minneapolis, right?

17 A. No.

18 Q. Where are they kept?

19 A. At the plant in Phoenix, Arizona.

20 Q. And, again, you did not go to the plant in
21 Phoenix, Arizona to look at Exhibit 2013, did you?

22 A. No.

23 MR. LUCAS: This is our next exhibit, Curry

24 3.

25 (Curry Exhibit 3, Certificate of Analysis,

1 Floraesters 20, was marked for identification.)

2 THE WITNESS: Thank you.

3 BY MR. LUCAS:

4 Q. Is this a copy of Exhibit 2013 that you are
5 referring to in paragraph 7?

6 A. Yes.

7 Q. This was originally a hardcopy document,
8 right?

9 A. Yes.

10 Q. And you've never seen the original hardcopy
11 document, have you?

12 A. No.

13 Q. You only saw an electronic copy of
14 Exhibit 2013, right?

15 A. Yes.

16 Q. And that was an electronic copy that Jenny
17 sent you, right?

18 A. Yes.

19 Q. So you didn't find this document yourself,
20 right?

21 A. No.

22 Q. Near the bottom of the page, there is a
23 section that says, "Name, David Ashley."

24 Do you see that?

25 A. Yes.

1 Q. And you told me before that you've never
2 spoken to Mr. Ashley, right?

3 A. That is correct.

4 Q. And then there is another stamp in the
5 center of this page, right, do you see that?

6 A. Yes.

7 Q. Who is the person who signed the stamp?

8 A. Jamie Meyer.

9 Q. And you've never spoken to Jamie Meyer
10 either, have you, right?

11 A. No, I have not.

12 Q. And you are not able to affirm that the
13 certificate of analysis is accurate, are you?

14 A. Again, I'm able to affirm that the business
15 practices that we have incorporated conform to the
16 authenticity and the retention of the documentation.

17 Q. But you are not personally willing to put
18 your neck on the line to say that this is accurate, are
19 you?

20 (Simultaneously speaking.)

21 MR. KANE: Objection, argumentative.

22 MS. REPORTER: I'm sorry.

23 BY MR. LUCAS:

24 Q. Correct?

25 (Reporter asks for clarification.)

1 MR. LUCAS: Sorry.

2 BY MR. LUCAS:

3 Q. You are not willing to affirm under oath
4 that Exhibit 3 to your deposition is accurate, right?

5 A. What I stated was, I am willing to affirm
6 that the documentation that stands in front of me is
7 accurate based on the business practices that we have
8 incorporated and continue to incorporate in our daily
9 business activities.

10 Q. But you are not willing to personally
11 affirm under oath that Exhibit 3 to your deposition is
12 accurate, are you?

13 A. Again, I affirm that the documentation that
14 stands in front of me is accurate based on the business
15 practices that we have incorporated and continue to
16 incorporate in our business practices on a regular
17 routine.

18 Q. Based on the business practices that you
19 learned about from someone else?

20 A. Based on the confirmation of my
21 conversations with employees within Cargill that this is
22 the normal business practices that we do on a regular and
23 routine basis.

24 Q. That conversation happened after you signed
25 this declaration, right?

1 A. Again, I had a confirmation discussion and
2 then I've had general conversations at the beginning of
3 my hire in my employment at Cargill to understand the
4 business practices that we incorporate on a day-to-day
5 basis.

6 Q. That confirmation discussion happened after
7 you signed your declaration, right?

8 A. Yes; that is correct.

9 Q. Was this certificate of analysis in
10 Exhibit 3 to your deposition provided to anyone outside
11 of Floratech/Cargill?

12 A. I can't --

13 MR. KANE: Lack of foundation.

14 THE WITNESS: Can you give me more
15 specificity on that?

16 BY MR. LUCAS:

17 Q. Yeah.

18 Do you know whether this certificate of
19 analysis, Exhibit 3 to your deposition, was provided to a
20 customer of Floratech?

21 A. I do not know.

22 Q. Who would know?

23 A. Production. And I would also say that
24 every lot that is sold to the busi- -- to our customers
25 has a certificate of analysis.

1 Q. But you don't know whether each of those
2 certificates of analyses are sent to a customer who
3 purchased the lot, do you?

4 MR. KANE: Objection, misstates the
5 testimony.

6 THE WITNESS: Again, as stated, every
7 customer who buys a lot of material would receive
8 a certificate of analysis.

9 BY MR. LUCAS:

10 Q. But you just told me that you don't know
11 whether or not this certificate of analysis was sent to a
12 customer in Floratech?

13 A. I don't know. But what I do know is our
14 business practices would say that -- the C of A would go
15 out. I don't -- I don't know if this particular lot was
16 sold eight times, one time, or three times.

17 Q. Right. You don't have personal knowledge
18 of whether this certificate of analysis was provided to a
19 customer of Floratech, do you?

20 A. I would say that our production team has
21 that knowledge.

22 MR. LUCAS: Is now a good time for a short
23 break?

24 MR. KANE: Sure.

25 THE WITNESS: Sure.

1 THE VIDEOGRAPHER: We are now going off the
2 record. The time on the video monitor is
3 10:09 a.m.

4 (A brief recess was taken from 10:07 a.m.
5 to 10:19 a.m.)

6 THE VIDEOGRAPHER: We're now back on the
7 record. The time on the video monitor is
8 10:20 a.m.

9 BY MR. LUCAS:

10 Q. Let's move on to paragraph 8 of your
11 declaration.

12 Whoever wrote this says:

13 "Exhibit 2014 is a true and correct copy of
14 the standard manufacturing protocol, (SMP) 2-45
15 Floraesters, with a revision date of December 16th, 1998,
16 right?

17 A. Yes.

18 Q. You weren't at Floratech when Exhibit 2014
19 was created, right?

20 A. No, I was not.

21 Q. Do you know the actual date on which
22 Exhibit 2014 was created?

23 A. No, I do not.

24 Q. All you know is that there is a revision
25 date listed on it, right?

1 A. Yes.

2 Q. Have you seen the prior version of the
3 standard manufacturing protocol for the Floraesters
4 products?

5 A. No, I have not.

6 Q. Do you know where the prior version of the
7 standard manufacturing protocol for the Floraesters
8 products is?

9 MR. KANE: Objection, lack of foundation.

10 THE WITNESS: Rephrase the question.

11 BY MR. LUCAS:

12 Q. The prior version of the standard
13 manufacturing protocol for the Floraesters products would
14 be archived at the same location in Arizona that you were
15 discussing previously, right?

16 A. The location would be at the -- in Arizona
17 based on the protocols that we have in place.

18 Q. The person who wrote this goes on to say:

19 "SMP 2-45 was made at or near the time
20 Floraesters was being manufactured in 1998 by a person
21 who had knowledge of the practices involved in
22 manufacturing Floraesters."

23 Do you see that?

24 A. Yes, I do.

25 Q. You weren't involved with the drafting of

1 SMP 2-45, right?

2 A. No, I was not.

3 Q. And you weren't in the room when, whoever
4 was drafting it, created SMP 2-45, were you?

5 A. No, I was not.

6 Q. At the time SMP 2-45 was made, you didn't
7 have knowledge of the practices involved in manufacturing
8 Floraesters, did you?

9 A. No, I did not.

10 Q. And you don't know what changed from the
11 prior version of the standard manufacturing protocol to
12 this revision, did you?

13 A. No, I do not.

14 Q. Your understanding that SMP 2-45 was made
15 at or near the time Floraesters was being manufactured in
16 1998 by a person who had knowledge of the practices
17 involved in manufacturing Floraesters, came from your
18 conversations with Mr. Addy, Ryan Quinn and Lynn Freed,
19 right?

20 A. The confirmation discussion that we had,
21 yes.

22 Q. You go on to say:

23 "Floritech regularly prepared standard
24 manufacturing protocols as part of its regular
25 manufacturing practice."

1 Right?

2 A. Yes.

3 Q. What do you mean by the phrase "regularly
4 prepared" when you say that, "Floratech regularly
5 prepared standard manufacturing protocols as part of its
6 regular manufacturing practices"?

7 MR. KANE: Objection, vague.

8 THE WITNESS: Could you give me more
9 specificity about what the question is?

10 BY MR. LUCAS:

11 Q. So you don't know what you meant by
12 "regularly prepared" in that sentence?

13 A. I'm asking you what you mean by that
14 question?

15 Q. My question is: What do you mean by the
16 phrase "regularly prepared" when you say, in this
17 paragraph that "Floratech regularly prepared standard
18 manufacturing protocols as part of its regular
19 manufacturing practices"?

20 A. It means regularly prepares standard
21 manufacturing protocols. So that means it regularly
22 prepares those protocols.

23 Q. And what do you mean by "regularly"?

24 A. Regularly.

25 Q. Every day, every week?

1 A. As need be based on the manufacturing
2 process.

3 Q. How many different standard manufacturing
4 protocols did Floratech make?

5 A. Depends on what process you are talking
6 about.

7 Q. Okay. Do you know whether the process for
8 making each of Floraesters 15, 20, 30, 60, 70 was revised
9 at any time between the period of December 16th, 1998,
10 and 2014?

11 A. No.

12 Q. You don't know?

13 A. I do not know.

14 Q. From 1998 until 2014, how many revisions
15 did Floratech make to the Floraesters 20 product?

16 A. Do not know.

17 Q. From 1998 until December 2014, how many
18 revisions did Floratech make to the Floraesters 30
19 product?

20 A. Do not know.

21 Q. And you don't know with respect to the 60
22 or 70 products either, right?

23 A. I do not know.

24 Q. Same with 15, right?

25 A. I do not know.

1 Q. And you don't know what changed each time
2 the process was revised, right?

3 A. I do not know.

4 Q. Who would know?

5 A. That would be Jeff Addy.

6 Q. So Jeff Addy would know how many revisions
7 to the standard manufacturing protocols Floratech made
8 from 1998 to until 2014?

9 A. Jeff Addy would know.

10 Q. But you don't know?

11 A. I do not know.

12 Q. You go on to say:

13 "Floratech, now Cargill, keeps these
14 standard manufacturing protocols, including SMP in
15 Exhibit 2014, as part of its regular business
16 activities."

17 Right?

18 A. Yes.

19 Q. And you told me that the standard
20 manufacturing protocols are archived in Arizona, right?

21 A. Yes.

22 Q. And you never saw any of the standard
23 manufacturing protocols on-site in Arizona, right?

24 A. Yes.

25 Q. You never saw them?

1 A. No.

2 Q. You didn't go look for them either, did
3 you?

4 A. No.

5 MR. LUCAS: Our next exhibit is Curry
6 Exhibit 4.

7 (Curry Exhibit 4, SMP 2-45 Floraesters, was
8 marked for identification.)

9 MR. LUCAS: This was previously marked
10 Cargill 2014.

11 BY MR. LUCAS:

12 Q. Mr. Curry, is this a copy of the
13 Exhibit 2014 that is referred to in paragraph 8 of your
14 declaration?

15 A. Yes.

16 Q. This was originally a hardcopy document,
17 right?

18 A. Yes.

19 Q. And you know that because there is a red
20 stamp on it that says "Confidential," right?

21 A. That could be one indication.

22 Q. And another indication would be that
23 someone wrote something in handwriting at the top of the
24 page, right?

25 A. That could be another indication.

1 Q. And you didn't see the original hardcopy
2 version of this document, did you?

3 A. No.

4 Q. What did you see?

5 A. I saw a softcopy.

6 Q. You saw the electronic copy that Jenny sent
7 you, right?

8 A. Yes.

9 Q. That someone else sent to Jenny, right?

10 MR. KANE: Objection, lack of foundation.

11 THE WITNESS: Could you give me a different
12 version of that question that's more specific?

13 BY MR. LUCAS:

14 Q. Someone sent an electronic copy of this
15 document to Jenny, who then sent it to you, right?

16 MR. KANE: Objection, lack of foundation.

17 THE WITNESS: Could you rephrase the
18 question again?

19 BY MR. LUCAS:

20 Q. How did this document get to Jenny?

21 A. It was sent to her from a person from the
22 plant.

23 Q. Who at the plant sent it to her?

24 A. I believe it was either Ryan or Jeff.

25 Q. But you don't know for sure?

1 A. No.

2 Q. So you didn't personally verify whether the
3 softcopy of this document was an accurate reproduction of
4 the hardcopy document that's located in Phoenix, Arizona,
5 right?

6 A. No.

7 Q. What's handwritten at the top of the page?

8 A. The word "obsolete."

9 Q. What does "obsolete" mean?

10 MR. KANE: Objection, vague.

11 THE WITNESS: Could you give me your basis
12 on what you -- what type of information you are
13 looking for on this?

14 BY MR. LUCAS:

15 Q. So someone wrote in handwriting "obsolete"
16 on this document, right?

17 A. Yes, they did.

18 Q. Do you know what the word "obsolete" means
19 in the context of this document?

20 MR. KANE: Objection, lack of foundation.

21 THE WITNESS: Depends on what they mean
22 because I didn't write it, I didn't write
23 "obsolete" on there, at the top.

24 BY MR. LUCAS:

25 Q. Do you know what the word "obsolete" means

1 in the context of this document?

2 MR. KANE: Objection, vague.

3 THE WITNESS: Again, it depends. I -- I
4 didn't write "obsolete" on the top of that
5 document, so you would have to ask the person who
6 wrote "obsolete" on the top to get their
7 definition of what that means.

8 BY MR. LUCAS:

9 Q. Do you know who wrote "obsolete" on the top
10 of this document?

11 A. No.

12 Q. And you don't know when "obsolete" was
13 written on the top of this document, right?

14 A. No.

15 Q. You are a smart man. You went to business
16 school, right?

17 A. If you say I'm smart.

18 Q. Well, did you go to business school?

19 A. Yes, I did.

20 Q. And don't you -- you did?

21 A. Yes.

22 Q. And you listed that you got a 4.0, at least
23 at some point over the course of your academic studies,
24 right?

25 A. Yes.

1 Q. When was that?

2 A. Undergrad and grad school.

3 Q. You had a perfect GPA?

4 A. Close to it, yes.

5 Q. Right.

6 Given your perfect GPA and the fact that
7 you went to business school, do you have an understanding
8 of what the word "obsolete" means?

9 MR. KANE: Objection, vague.

10 THE WITNESS: Yes, but it depends on how
11 you apply it.

12 BY MR. LUCAS:

13 Q. What is your understanding of the
14 definition of the word "obsolete"?

15 A. It depends on how you apply it, but it
16 could be used to state that there is a revision. It
17 could mean that there are pieces of this that are still
18 in -- in -- enacted because it does not specify where
19 this is obsolete.

20 It is obsolete at the top, but there is no
21 correlation on what it means. Is it obsolete from a
22 purpose, a scope? I mean, there is several pages of
23 this, and I don't know what obsolete applies to.

24 So, therefore, I cannot make an assumption
25 about how it is applied because there are multiple pages.

1 So there is no -- denotion of where that would apply.

2 Q. So you don't know one way or the other
3 whether this document was in force as the manufacturing
4 protocol at any time between December 16th, 1998, and
5 2014?

6 A. Again, I don't know how -- what was written
7 on the obsolete, I don't know that. I don't know where
8 it applies.

9 Q. You don't know if this was ever the
10 manufacturing protocol for the Floraesters products, do
11 you?

12 A. Based on the specifications, the final
13 product specifications and correlating that to this
14 certificate of analysis, they're -- you would have to do
15 the comparison between the two to ensure that that indeed
16 was enacted.

17 That's why I said you have to look at it
18 and determine based on the conversation of the person who
19 wrote the "obsolete."

20 Q. And you don't know when this standard
21 manufacturing protocol became obsolete, do you?

22 A. No.

23 MR. KANE: Objection, vague.

24 BY MR. LUCAS:

25 Q. Is this currently the standard

1 manufacturing protocol for the Floraesters products?

2 MR. KANE: Objection, lack of foundation.

3 THE WITNESS: The production guys who run
4 the production at the facility, this would be a
5 question for them.

6 BY MR. LUCAS:

7 Q. So you can't tell me one way or the other
8 whether this standard manufacturing protocol that has the
9 word "obsolete" written on the top, is currently the
10 standard manufacturing protocol for the development of
11 Floraesters products?

12 A. My statement is that you would need to talk
13 to the production crew to be able to go through line by
14 line what the production process is.

15 Q. So you personally don't know. I'd have to
16 talk to someone else?

17 A. What I'm stating is that you would need to
18 have a conversation with the production people, and they
19 would be able to verify the production process line by
20 line.

21 Q. And you personally don't know the answer to
22 this question, right?

23 A. You would need to have a conversation with
24 them, who would give you the definitive answer on the
25 production process.

1 Q. You don't know one way or the other whether
2 this was the standard manufacturing protocol that was
3 effective when Lot Number FELM35 and Lot Number FEME08
4 were created, right?

5 A. Based on the timeline, when they were
6 created, and the timeline of when this document was
7 created, they are in the same timeline of when this would
8 be produced.

9 Q. Lot Number FELM35 was produced in 2004,
10 right?

11 A. Yes.

12 Q. Same with Lot Number FEME08, right?

13 A. Yes.

14 Q. The only date that we have on the standard
15 manufacturing protocol is a revision date of
16 December 16th, 1998, right?

17 A. Yes.

18 Q. And that's six years prior to when the lots
19 were created, right?

20 A. Yes.

21 Q. And you don't know one way or the other
22 whether there was a subsequent revision between
23 December 16th, 1998, and when those two lots were
24 created, do you?

25 A. Again, you would need to have a

1 conversation with the production team because they were
2 involved in the development of the production process.

3 Q. Again, I'm asking whether you know one way
4 or the other.

5 A. You would have to talk to the production
6 people to get the verification of that.

7 Q. So the answer is, you don't know. I'd have
8 to talk to the production people, right?

9 A. You'd have to talk to the production
10 people.

11 Q. The answer is "no," you don't know?

12 A. You would have to talk to the production
13 people to get the definitive answer.

14 Q. You don't know the answer?

15 A. You would have to talk to the production
16 people to get that answer.

17 Q. Why can't you say that you don't know? You
18 are telling me that someone else knows.

19 A. I'm not the production crew.

20 Q. Right. So you don't know?

21 A. You would have to talk to the production
22 people. This is my statement.

23 Q. And you don't know --

24 A. This is my --

25 Q. -- if there was a change. The production

1 people know, not you, right?

2 A. The production people know.

3 Q. You don't know?

4 A. The production people know.

5 MR. LUCAS: Let's take a short break.

6 THE VIDEOGRAPHER: We are now -- we are now
7 going off the record. The time on the video
8 monitor is 10:42 a.m., and this concludes Media
9 Unit Number 1.

10 (A brief recess was taken from 10:40 a.m. to
11 10:51 a.m.)

12 THE VIDEOGRAPHER: We are now back on the
13 record. The time on the video monitor is
14 10:53 a.m. This begins Media Unit Number 2.

15 BY MR. LUCAS:

16 Q. Mr. Curry, we took two breaks today, right?

17 A. Yes.

18 Q. Did you speak to Mr. Kane about the
19 substance of your testimony during any of those two
20 breaks?

21 A. No, we did not.

22 MR. LUCAS: I pass the witness.

23 MR. KANE: Just got a few questions here.
24
25

CROSS-EXAMINATION

BY MR. KANE:

Q. Mr. Curry, do you remember earlier today you spoke about the -- the research you did when you started working for Cargill?

A. Yes.

Q. And you mentioned at one point that you were aware of the company standard protocols in order to comply with ISO certifications and governmental regulations.

Do you recall that?

MR. LUCAS: Objection to form. Objection, vague. Objection, outside the scope.

BY MR. KANE:

Q. Do you recall that testimony?

A. Yes.

Q. Okay. And when did you learn about the ISO certification and governmental standards that Cargill complies with?

MR. LUCAS: Same objections.

THE WITNESS: During my early part of the discussion process when I first started, in the January, February time frame, when I was looking at historical reports and talking to people within the plant about the requirements.

1 There are also standard requirements in the
2 industry that most chemical companies have to be
3 applicable to and be judged by.

4 BY MR. KANE:

5 Q. And when you said early on in January,
6 February, you are talking about early on in January,
7 February, of 2023?

8 A. Yes, of 2023.

9 Q. And when did you learn that Cargill had a
10 practice of creating certificates of analysis for each
11 lot?

12 A. Again, in January, February 2023. And,
13 again, that's a standard process in the chemical industry
14 where it is required for you to have certificate of
15 analysis for your -- every -- every lot that's made.

16 Q. And was that knowledge in part gained by
17 the conversations you had with employees in Cargill?

18 A. Yes.

19 MR. LUCAS: Objection to form.

20 BY MR. KANE:

21 Q. Okay. And that was all before December of
22 2023?

23 A. Yes, that was.

24 Q. So that was before -- you knew all of that
25 information before you signed the declaration?

1 MR. LUCAS: Objection to form.

2 THE WITNESS: Yes; that's correct.

3 BY MR. KANE:

4 Q. Have any of the -- have you ever provided
5 a -- well --

6 MR. KANE: I have no further questions at
7 this time.

8 MR. LUCAS: One or two for me.

9 REDIRECT EXAMINATION

10 BY MR. LUCAS:

11 Q. In the January/February 2023 time frame,
12 did you go to the plant in Phoenix and look at any of the
13 certificates of analysis for the Floraesters products?

14 A. No. However, I did look at the business
15 standards by which we manage our business, with Lynn, who
16 also used to work in quality and other personnel. So...

17 Q. So you've never seen hardcopies of the
18 certificates of analyses that are spoken about in this
19 declaration before, have you?

20 A. No.

21 MR. LUCAS: No further questions.

22 MR. KANE: Nothing further.

23 We'll read and sign.

24 THE VIDEOGRAPHER: Thank you.

25 We are now going off the record. The time

on the video monitor is 10:57 a.m. and this
concludes today's testimony by Delrika Curry.

(The proceeding is adjourned at 10:55 a.m.)

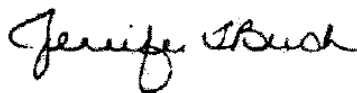
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CERTIFICATE OF OATH OF WITNESS

STATE OF FLORIDA)
COUNTY OF ST. LUCIE)

I, the undersigned Notary Public, in and
for the State of Florida, hereby certify that DELRIKA
CURRY ^ personally appeared before me, produced ID and
was duly sworn.

WITNESS MY HAND and official seal in the
City of Fort Pierce, County of St. Lucie, State of
Florida this February 20, 2024.



Jennifer L. Bush, RPR, FPR

Notary Public

State of Florida at Large.

My Commission: #HH 002112

My commission expires: 9/24/24

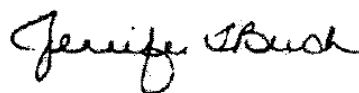
CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF ST. LUCIE)

I, Jennifer L. Bush, Registered Registered
Registered Professional Reporter, do hereby certify that
I was authorized to and did stenographically report the
deposition of DELRIKA CURRY; and that a review of the
transcript was requested; and that pages 1 through 78,
inclusive, are a true record of my stenographic notes.

I further certify that I am not a relative,
employee, attorney or counsel of any of the parties, nor
am I a relative or employee of any of the parties,
attorneys or counsel connected with the action, nor am I
financially interested in the action.

Dated this February 20, 2024.



Jennifer Bush, RPR, FPR

The foregoing certification of the
transcript does not apply to any reproduction of the same
by and means unless under the direct control and/or
direction of the certifying reporter.

1 Michael J. Kane, Esq.

2 kane@fr.com

3 February 21, 2024

4 RE: Vantage Specialty Chemicals, Inc. v. Cargill, Incorporated

5 2/20/2024, Delrika Curry (#6445950)

6 The above-referenced transcript is available for
7 review.

8 Within the applicable timeframe, the witness should
9 read the testimony to verify its accuracy. If there are
10 any changes, the witness should note those with the
11 reason, on the attached Errata Sheet.

12 The witness should sign the Acknowledgment of
13 Deponent and Errata and return to the deposing attorney.
14 Copies should be sent to all counsel, and to Veritext at
15 cs-midwest@veritext.com.

16 Return completed errata within 30 days from
17 receipt of testimony.

18 If the witness fails to do so within the time
19 allotted, the transcript may be used as if signed.

20
21
22 Yours,

23 Veritext Legal Solutions
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25

Vantage Specialty Chemicals, Inc. v. Cargill, Incorporated
 Delrika Curry (#6445950)

E R R A T A S H E E T

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Delrika Curry

Date

Vantage Specialty Chemicals, Inc. v. Cargill, Incorporated
Delrika Curry (#6445950)

ACKNOWLEDGEMENT OF DEPONENT

I, Delrika Curry, do hereby declare that I
have read the foregoing transcript, I have made any
corrections, additions, or changes I deemed necessary as
noted above to be appended hereto, and that the same is
a true, correct and complete transcript of the testimony
given by me.

Delrika Curry

Date

*If notary is required

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_____ DAY OF _____, 20____.

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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