

COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

WATSON LAND COMPANY, )

PLAINTIFF-RESPONDENT, )

VS. )

ATLANTIC RICHFIELD COMPANY, )  
ETC., ET AL., )

DEFENDANTS-APPELLANTS, )

) SUPERIOR COURT  
) CASE NO. BC 150161

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE WENDELL MORTIMER, JR., JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

JUNE 27, 2001

APPEARANCES:  
FOR PLAINTIFF-  
RESPONDENT:

BRIGHT AND BROWN  
BY: JAMES S. BRIGHT  
MAUREEN J. BRIGHT  
BRIAN L. BECKER  
550 NORTH BRAND BOULEVARD  
SUITE 2100  
GLENDALE, CALIFORNIA 91203  
818.243.2121

FOR DEFENDANTS-  
APPELLANTS:

CALDWELL, LESLIE, NEWCOMBE & PETTIT  
BY: MICHAEL R. LESLIE  
ANDREW ESBENSHADE  
1000 WILSHIRE BOULEVARD  
SUITE 600  
LOS ANGELES, CALIFORNIA 90017-5624  
213.629.9040

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LINDA STALEY, CSR NO. 3359, RMR, CRR  
OFFICIAL REPORTER





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550 NORTH BRAND BOULEVARD  
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818.243.2121

FOR DEFENDANTS:

LAW OFFICES OF DAVID J. EARLE  
BY: DAVID JEFFREY EARLE  
138 NORTH BRAND BOULEVARD  
SUITE 303  
GLENDALE, CALIFORNIA 91203  
818.242.4700

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213.629.9040

I N D E X

TUESDAY, JUNE 27, 2001 ..... 4064:3  
2:00 P.M. .... 4064:7

WITNESS

ILEANA RHODES

CROSS-EXAMINATION (RESUMED) BY MS. BRIGHT..... 4065:6  
REDIRECT EXAMINATION BY MR. LESLIE..... 4126:26  
RE-CROSS-EXAMINATION BY MS. BRIGHT..... 4148:27

EXHIBITS

I.D. 976 - ORIENTATION MANUAL..... 4072:17  
I.D. 1562 - 3/1939 ARTICLE..... 4078:9  
I.D. 732 - 5-11-79 LETTER..... 4090:18  
I.D. 3249 - RHODES' SLIDES..... 4127:12  
I.D. 3250 - ARCO FUEL ADDITIVES..... 4127:28  
I.D. 3251 - CHROMATOGRAPHS..... 4130:25  
I.D. 472 - WATERSTONE REPORT..... 4152:26

1 WE KNOW THAT, DON'T WE, DOCTOR?

2 A. YES, WE DO KNOW THAT.

3 Q. AND WE KNOW THAT IF WE PUT DIPE IN THE  
4 GASOLINE, IT BOOSTS THE OCTANE; WE KNOW THAT, DON'T WE,  
5 DR. RHODES?

6 A. YES, WE DO.

7 Q. AND WE DO KNOW THAT IF YOU PUT OXYGENATES IN  
8 FUEL, BESIDES BOOSTING THE OCTANE, YOU BOOST OR INCREASE THE  
9 VOLUME OF THE FUELS THAT YOU HAVE TO SELL; THAT'S CORRECT,  
10 ISN'T IT?

11 A. BY A SMALL PERCENT.

12 Q. YES.

13 AND SO WE KNOW THAT THERE WAS A MAJOR SOURCE OF  
14 DIPE AT THE NORTHERN DOMINGUEZ REFINERY IN THE SAME LOCATION  
15 WHERE SHELL WAS PRODUCING LEADED GASOLINE FOR THE ENTIRE  
16 PERIOD IN QUESTION, DON'T WE?

17 A. IT ISN'T THE SAME PLACE. THEY'RE ADJACENT TO  
18 EACH OTHER.

19 Q. OH. WE KNOW THAT THE CHEMICAL PLANT PRODUCING  
20 THE DIPE IS ADJACENT TO THE REFINERY THAT WAS PRODUCING  
21 LEADED GASOLINE THROUGH THE RELEVANT PERIOD, CORRECT?

22 A. THAT'S TRUE.

23 Q. I WANTED TO MAKE SURE I GOT IT RIGHT.

24 SO LET ME JUST ADD SOME OF THESE THINGS UP FOR  
25 A SECOND. STAY WITH ME NOW, WOULD YOU?

26 WE KNOW THAT SHELL WAS MANUFACTURING DIPE AS A  
27 CO-PRODUCT OF ISOPROPYL THROUGHOUT THE PERIOD THAT'S RELEVANT  
28 TO US, AND IT'S 1960 TO 1980 BECAUSE OF THOSE 5 LEAD ALKYLs,

1 RIGHT?

2 A. THAT'S CORRECT.

3 Q. AND WE KNOW THAT ONE USE OF DIPE WOULD BE TO  
4 PUT IT IN GASOLINE TO BOOST YOUR OCTANE AND INCREASE YOUR  
5 VOLUME, CORRECT?

6 A. YES.

7 Q. AND WE KNOW THAT SHELL WAS USING THOSE TWO  
8 PIECES OF THE REFINERY IN AN INTEGRATED MANNER AND THAT IT  
9 WAS RUNNING THE INTER-REFINERY PRODUCTS BACK AND FORTH  
10 BETWEEN THE TWO REFINERIES AND RIGHT THROUGH THE  
11 WATSON CENTER, RIGHT?

12 A. YES.

13 Q. AND WE KNOW THAT, AT LEAST FOR 1979 TO THE  
14 EXTENT WE COULD FIND A DOCUMENT, WE KNOW THAT SOMEWHERE IN  
15 THE COUNTRY, SHELL WAS PRODUCING BILLIONS OF GALLONS OF  
16 LEADED GASOLINE CONTAINING BOTH THE 5 LEAD ALKYL PACKAGE AND  
17 DIPE AND NO MTBE, CORRECT?

18 A. THAT IS NOT QUITE CORRECT.

19 WE MAY HAVE BEEN PRODUCING A LOT OF THE  
20 GASOLINE WITH THE 5 LEAD ALKYL WITHOUT ANY DIPE BASED ON  
21 THOSE REGISTERS AND SOME WITH IT.

22 Q. SO WE KNOW THERE WAS SOME PRODUCED, CORRECT?

23 A. IT APPEARS, BASED ON THE REGISTERS, UNLESS THEY  
24 WERE CONSERVATIVE AND REPORTED IT ANYWAY.

25 I DON'T KNOW THAT.

26 Q. AND WE KNOW THAT AT LEAST FOR THE GASOLINE OR  
27 THE ADDITIVES THAT YOU PRODUCED FOR ARCO THAT PREDATE 1980,  
28 ARCO WASN'T USING ANY DIPE IN ITS GASOLINE, WAS IT?

1           A.       THEY WEREN'T REGISTERED. I DON'T KNOW IF THEY  
2 WERE USING IT OR NOT.

3           Q.       HUH-UH. THEY DIDN'T REGISTER IT. SO TELL ME  
4 DR. RHODES --

5           A.       THEY DIDN'T REGISTER THE -- ON THE ONES THAT I  
6 SAW. I DIDN'T SEE ALL THE DOCUMENTS.

7           Q.       WELL, IF THERE WAS A REGISTER THAT HAD ARCO  
8 USING DIPE IN LEADED GASOLINE WITH TETRAMIXES WITH THE  
9 5 LEAD ALKYLs PRIOR TO 1980, SURELY, WE'D HAVE SEEN THAT  
10 DOCUMENT BY NOW, DON'T YOU THINK?

11          A.       I DON'T KNOW. I DON'T KNOW HOW THOSE DOCUMENTS  
12 ARE OBTAINED.

13          Q.       WELL, WHY DON'T WE JUST ASSUME THAT THE  
14 DOCUMENTS WE HAVE SEEN AND REVIEWED TO DATE HAVE BEEN  
15 ACCURATE.

16                   AND ON THAT BASIS, WE CAN SAY THAT AT LEAST FOR  
17 THE 1970 DOCUMENTS WE'VE SEEN FOR ARCO TO THE EXTENT THOSE  
18 DOCUMENTS ARE AVAILABLE, ARCO WAS NOT USING DIPE IN ITS  
19 LEADED GASOLINE PRODUCTS CONTAINING THE TETRAMIX WITH THE  
20 5 LEAD ALKYLs.

21                   WE CAN SAY THAT MUCH, CAN'T WE?

22          A.       SURE. THAT'S SOMEBODY FROM THE RECORD POOL.  
23 I'M JUST THE FINGERPRINTER, NOT THE RECORD PERSON.

24          Q.       ALL RIGHT. WELL, WHEN YOU TAKE ALL OF THOSE  
25 FACTS INTO CONSIDERATION, DR. RHODES, AND THEN YOU TAKE INTO  
26 CONSIDERATION THE FACT THAT THE PRODUCT THAT'S BEEN TYPED IN  
27 THE B2 PLUME HAS 5 LEAD ALKYLs, IS LEADED GASOLINE, HAS DIPE  
28 IN IT AND HAS NO MTBE IN IT, WOULDN'T YOU AGREE WITH ME,



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JULY 12, 2001

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BY: JAMES S. BRIGHT

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550 NORTH BRAND BOULEVARD

SUITE 2100

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FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 307

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REPORTER'S DAILY TRANSCRIPT OF PROCEEDINGS

THURSDAY, JULY 12, 2001

VOLUME 33

PAGES 5452 THROUGH 5627, INCLUSIVE

APPEARANCES:

(AS NOTED ON THE FOLLOWING PAGE.)

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REPORTER'S DAILY TRANSCRIPT OF PROCEEDINGS

THURSDAY, JULY 12, 2001

VOLUME 32

PAGES 5452 THROUGH 5627, INCLUSIVE

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MARY NEWCOMBE  
1000 WILSHIRE BOULEVARD  
SUITE 600  
LOS ANGELES, CALIFORNIA 90017-5624  
213.629.9040

I N D E X

THURSDAY, JULY 12, 2001..... 5452:3  
9:05 A.M..... 5452:7  
1:30 P.M..... 5548:7

INSTRUCTIONS BY THE COURT..... 5467:11  
ARGUMENT BY MS. BRIGHT..... 5489:17  
ARGUMENT BY MR. LESLIE..... 5612:1

EXHIBITS

I.D. 1584 - RESOLUTION 88-63..... 5454:27  
EVID. - 1584..... 5454:28  
I.D. 1585 - RESOLUTION 92-49..... 5455:12  
EVID. - 1585..... 5455:13  
I.D. 1586 - TABLE 2 SOIL SAMPLES..... 5457:9  
EVID. - 1586..... 5457:10  
I.D. 1587 - SUMMARY OF DOWNHOLE FLUX INVESTIGATION.. 5458:3  
EVID. - 1587..... 5458:5  
I.D. 1588 - 6-4-97 REPORT..... 5458:14  
EVID. - 1588..... 5458:15  
EVID. - 3, 7, 985, 986, 988, 989, 990, 991, 992,  
993, 994, 995, 996, 997, 998, 1007, 1008, 1009,  
1010, 1011, 1033, 1035, 1040, 1041, 1049, 1050,  
1051, 1052, 1053, 1090, 1091, 1093, 1094, 1096,  
1098, 1099, 1103, 1104, 1105, 1106, 1107, 1108,  
1114, 1115, 1116, 1118, 1119, 1120, 1154, 1155  
AND 1161..... 5460:3  
WITHDRAWN EVID. - 1575 AND 1576..... 5460:28

## 1 ARGUMENT

2 BY MR. LESLIE:

3 OBVIOUSLY, I JOIN MRS. BRIGHT ON BEHALF OF  
4 SHELL, AND ALSO, I'M SURE, WATSON FEELS THE SAME WAY.5 ~~WE DO APPRECIATE YOUR ATTENTIVENESS AND YOUR~~  
6 SERVICE, BECAUSE YOU HAVE BEEN EXTREMELY ATTENTIVE THROUGH  
7 SOMETIMES LONG-WINDED AND BORING AND HIGHLY TECHNICAL  
8 TESTIMONY.9 BUT DESPITE ALL THAT LONG-WINDED AND BORING AND  
10 TECHNICAL TESTIMONY, THE PRIMARY THING THAT YOU NEED TO DO  
11 WHEN YOU GO BACK IN THE JURY ROOM IS NOT DISCARD YOUR COMMON  
12 SENSE AT THE DOOR.13 OKAY. YOU FOLKS, HAVING HEARD ALL THE  
14 EVIDENCE, HAVING HEARD THE EXPERTS ON ONE SIDE, ON THE OTHER  
15 SIDE, HAVING HEARD THE ARGUMENTS OF BOTH COUNSEL, ARE THE  
16 ONES THAT ARE CHARGED ULTIMATELY WITH TRYING TO FOLLOW THE  
17 LAW AND FOLLOWING THE EVIDENCE.18 AND COMMON SENSE CAN BE APPLIED TO THIS CASE  
19 JUST AS IT CAN TO ANY OTHER TYPE OF CASE.20 AND ONE OF THE THINGS THAT I'D LIKE YOU TO TAKE  
21 A LOOK AT WHEN YOU GO BACK AND YOU START TO TALK IS, FIRST OF  
22 ALL, YOU HAVE TO USE YOUR COMMON SENSE TO FIGURE OUT, FIRST  
23 OF ALL, WHERE THE CONTAMINATION CAME FROM.24 IT MIGHT BE ARCO, MIGHT BE SHELL, MIGHT BE SOME  
25 COMBINATION OF THE TWO, DEPENDING ON THE EVIDENCE. I'LL TALK  
26 ABOUT THAT A LITTLE BIT.

27 SECOND OF ALL, WHAT'S TO BE DONE ABOUT IT?

28 HOW MUCH -- HOW SHOULD IT BE REMEDIATED?

1                   NOBODY'S SAYING IT SHOULDN'T BE REMEDIATED.  
2           THE QUESTION IS, WHAT IS THE REASONABLE WAY OF REMEDIATING  
3           IT, WHAT IS THE BEST WAY OF DOING SO TECHNICALLY, AND WHAT'S  
4           THE COST OF THAT.

5                   AND THEN THIRD OF ALL, YOU HAVE TO GO IN AND  
6           YOU HAVE TO PUT DOLLAR FIGURES UP ON THE BOARD.

7                   AND ONE OF THE THINGS THAT, TO ME, I HAVE GREAT  
8           FAITH IN, IS THAT PEOPLE CAN APPLY THEIR COMMON SENSE IN SUCH  
9           A WAY AS TO TRY TO DETERMINE -- YOU KNOW, JUST BECAUSE THE  
10          PLAINTIFFS ARE WRITING BIG NUMBERS ON THE BOARD, WHAT DOES  
11          THAT MEAN?

12                   DOES THAT MEAN THAT NECESSARILY YOU SPLIT THE  
13          DIFFERENCE?

14                   DOES THAT MEAN THAT THEY'RE RIGHT?

15                   NO.

16                   YOU HAVE TO LOOK AT THE FACTUAL FOUNDATION OF  
17          THAT.

18                   AND IF YOU GO ALL THE WAY BACK TO THE VOIR  
19          DIRE AT THE BEGINNING OF THE CASE, YOU REMEMBER THAT THERE  
20          WAS SOME QUESTIONS THAT WERE ASKED.

21                   DO YOU THINK THAT THE DAMAGES THAT SOMEBODY'S  
22          AWARDED IN TRIAL SHOULD RELATE SOMEHOW TO THE HARM THAT THEY  
23          SUFFERED?

24                   AND EACH OF YOU THAT WERE ASKED THAT QUESTION  
25          COMMITTED THAT YOU WOULD FOLLOW THE LAW AND FOLLOW THE  
26          EVIDENCE AND NOT BE PERSUADED JUST BECAUSE SOMEBODY WRITES A  
27          BIG NUMBER ON THE BOARD, BUT YOU WOULD TRY TO FIGURE OUT,  
28          WHAT DOES THE EVIDENCE JUSTIFY.

1                   AND ONE OF THE THINGS THAT I FOUND VERY,  
2 INTERESTING ABOUT THIS CASE, AND I WAS, FRANKLY, SURPRISED BY  
3 IT, WAS WATSON LAND COMPANY -- WHO YOU SAW, IS ONE OF THE  
4 LARGEST DEVELOPERS IN SOUTHERN CALIFORNIA OF MASTERPLANNED  
5 HOMES -- WHO DID THEY CALL AS THEIR WITNESSES?

6                   ACCORDING TO THEIR WEBSITE, WHO DID THEY CALL  
7 AS THEIR WITNESSES?

8                   THEY CALLED MR. FRAZIER, THEIR GENERAL COUNSEL  
9 WHO WAS IN CHARGE OF THE LITIGATION.

10                  THEY CALLED THEIR PAID EXPERTS AND CONSULTANTS,  
11 DR. DAGDIGIAN'S TEAM.

12                  AND I'LL SHOW YOU SOME TESTIMONY WHERE -- BUT  
13 YOU'LL PROBABLY RECALL FOR YOURSELF -- THAT DR. DAGDIGIAN  
14 TESTIFIED THAT WHEN WATSON SWITCHED CONSULTANTS AFTER THEY  
15 SETTLED WITH ARCO AND HIRED DR. DAGDIGIAN AND HIS TEAM, HE  
16 KNEW FROM THE VERY BEGINNING BEFORE HE TOOK ANY DATA THAT,  
17 NUMBER ONE, HE WAS GOING TO BE SITTING ON THE STAND TRYING TO  
18 PERSUADE A JURY THAT THE CONTAMINATION CAME FROM SHELL  
19 PIPELINES.

20                  AND NUMBER TWO, HE KNEW THAT WAS HIS JOB.

21                  AND NUMBER THREE, HE WAS HIRED AT LEAST IN PART  
22 FOR HIS LITIGATION EXPERTISE. AND I WILL SHOW YOU THAT  
23 TESTIMONY.

24                  OKAY. SO WHEN THESE NUMBERS WERE UP THERE, I  
25 RECALLED THAT AT -- TOWARDS THE END OF, I THINK, THE REDIRECT  
26 OF DR. DAGDIGIAN, THE PLAINTIFF'S CASE IN CHIEF, AFTER ALL  
27 THE DISCOVERY IN THE CASE, AFTER ALL HIS TESTIMONY, TRYING TO  
28 PERSUADE EVERYBODY THAT HE HAD ALL THESE BIG CALCULATIONS

1 THAT ACTUALLY MADE THESE NUMBERS SOMETHING REAL, EVEN THOUGH  
2 THEY'VE NEVER BEEN SUBMITTED TO ANYBODY, THERE'S NO BIDS OUT,  
3 THERE'S NO CONTRACTS, THEY'VE GOT NO HARD DOLLARS, THEY'VE  
4 TAKEN NO STEPS TO REMEDIATE THIS AT ALL IN THE TEN YEARS  
5 SINCE ARCO FIRST DISCOVERED OFF-SITE CONTAMINATION AND THE  
6 FIVE YEARS SINCE THEY DID THIS SUIT, NEVERTHELESS, ALL OF HIS  
7 TESTIMONY WAS DIRECTED TOWARD TRYING TO PERSUADE YOU THAT HIS  
8 INITIAL NUMBERS OF THE CLEANUP WERE SOMETHING THAT WERE  
9 CREDIBLE, THAT WERE SCIENTIFIC, THAT WERE SOMEHOW BASED ON  
10 HIS VAST EXPERIENCE IN CLEANING THINGS UP, OF WHICH YOU  
11 DIDN'T HEAR ONE SINGLE EXAMPLE, DID YOU?

12 YOU JUST HEARD, DO YOU HAVE A LOT OF  
13 EXPERIENCE, DR. DAGDIGIAN.

14 OH, ABSOLUTELY, HUNDRED OF TIMES. I'VE DONE  
15 QUITE A BIT.

16 DIDN'T HEAR ANY SPECIFIC EXAMPLES.

17 AS A MATTER OF FACT, REMEMBER WHAT HE SAID?

18 HE HAD NEVER IN HIS WHOLE CAREER DESIGNED OR  
19 IMPLEMENTED ANY REMEDY IN THE RANGE OF \$12 MILLION OTHER  
20 THAN, HE SAID -- OH, OTHER THAN ONE. AND THAT WAS ANOTHER  
21 CASE HE'S WORKING ON WITH BRIGHT AND BROWN.

22 OKAY. THAT TELLS US A LITTLE SOMETHING RIGHT  
23 THERE.

24 BUT, THE POINT I WANTED TO MAKE IN THE FEW  
25 SHORT MINUTES IS, REMEMBER THAT HE PUT THIS NUMBER DOWN HERE  
26 FOR THE TOTAL CLEANUP COSTS, \$12, 781,302.

27 THAT SOUNDS PRETTY PRECISE, DOES IT NOT?

28 AND THEN HE GOT UP ON THE STAND, AND

1 MRS. BRIGHT ASKED HIM, AND HE SAT HERE, AND SHE SAID, OH,  
2 GEE, WHAT WOULD YOU BUDGET FOR THIS?

3 OH, WELL, I GUESS I'D BUDGET 20 MILLION.

4 YOU KNOW, AND THEN SHE SAID, CHANGE A COUPLE OF  
5 ASSUMPTIONS, WHAT DOES THAT DO TO IT?

6 OH, THAT DOUBLES IT.

7 CALCULATIONS?

8 NO. SHE THREW OUT SOME STUFF ABOUT POROSITY,  
9 AND YOU KNOW, OTHER SORTS OF MUMBO-JUMBO. BUT BASICALLY WHAT  
10 THAT AMOUNTED TO WAS A WAVING OF ARMS BY THE LAWYER AND THE  
11 DAMAGES EXPERT WHO WAS HIRED FOR DAMAGE, DOUBLED HIS NUMBER,  
12 AND GUESS WHAT?

13 THEN HE APPLIES THAT DOUBLED NUMBER AND HE  
14 WRITES A NEW NUMBER UP ON THE BOARD OF \$120 MILLION.

15 OKAY. THIS ISN'T MONOPOLY MONEY WE'RE TALKING  
16 HERE, YOU KNOW, ALTHOUGH IT MAY SEEM THAT WAY. I MEAN, MY  
17 DAUGHTER'S ONLY PLAYED MONOPOLY. MAYBE THEY TOSS FIGURES  
18 AROUND LIKE THAT.

19 REMEMBER WHAT MR. FRAZIER SAID?

20 THAT THE WHOLE VALUE OF THE WATSON INDUSTRIAL  
21 CENTER, THOSE HUNDREDS OF ACRES WITH ALL THOSE GIGANTIC  
22 BUILDINGS -- REMEMBER THE TESTIMONY THAT ONE OF THEM WAS, I  
23 DON'T KNOW, 500,000 SQUARE FEET, HUMONGOUS THING -- WE SAW A  
24 BUNCH OF LEASES WITH MR. MEXIA -- THAT THEY GET 20- TO  
25 \$50,000 A MONTH FOR EACH OF THOSE MANY, MANY BUILDINGS UP ON  
26 THE SITE.

27 OKAY. THE VALUE OF THAT ENTIRE THING WAS  
28 400 MILLION. AND THEY ARE ASKING US HERE FOR 122 MILLION?

1                    THAT WOULD BUY BUILDING AFTER BUILDING AFTER  
2 BUILDING. THAT WOULD BUY PLOT AFTER PLOT AFTER PLOT OF LAND  
3 ON THE WATSON CENTER.

4                    KEEP IN THAT MIND WHEN YOU'RE ASSESSING THE  
5 REASONABLENESS OF THESE DAMAGES -- AND KEEP IN MIND HOW MUCH  
6 CONFIDENCE CAN YOU REALLY HAVE IN A DAMAGE FIGURE THAT, WITH  
7 THE WAVING OF ARMS, GETS BUMPED UP TO 20 MILLION, THAT WITH A  
8 LITTLE BIT MORE WAVING OF ARMS, OH, CHANGE A COUPLE OF  
9 ASSUMPTIONS, OH, WELL, THAT WOULD DOUBLE IT.

10                    OH, WELL, WHAT DOES THAT DO TO YOUR BENEFIT TO  
11 SHELL?

12                    OH, THAT'S \$120 MILLION.

13                    HOW MUCH -- WHAT SORT OF REALITY DOES THAT  
14 REALLY HAVE?

15                    AND THE THING THAT YOU GUYS ARE GOING TO HAVE  
16 TO SORT OUT WHEN YOU GO BACK IN THE JURY ROOM IS, YOU'RE  
17 GOING TO HAVE TO LOOK AT THE EVIDENCE AND YOU'RE GOING TO  
18 HAVE TO CONSIDER THE EXPERT TESTIMONY FROM BOTH SIDES.

19                    YOU'RE GOING TO HAVE TO LOOK AT THE DOCUMENTS,  
20 AND YOU'RE GOING TO HAVE TO FIND OUT, NUMBER ONE, WHAT WAS  
21 THE CAUSE OF THIS?

22                    NUMBER TWO, WHAT NEEDS TO BE DONE ABOUT IT?

23                    AND NUMBER THREE, WHAT SHOULD WE AWARD AS A  
24 RESULT THAT?

25                    AND THAT HAS TO BE BASED ON THE EVIDENCE.

26                    ONE OF THE THINGS THAT MRS. BRIGHT SHOWED YOU  
27 UP ON THE SCREEN IS THE JURY INSTRUCTION WHICH YOU WILL GET  
28 THAT SAYS, THE ARGUMENT OF COUNSEL ON DAMAGES IS BASICALLY

1 NOT EVIDENCE, IT'S TO BE IGNORED BY YOU. YOU'RE TO BASE YOUR  
2 EVIDENCE -- OR EXCUSE ME -- YOU BASE YOUR DAMAGE AWARD ON THE  
3 EVIDENCE.

4 AND THE SAME GOES WHEN SOMEBODY -- COUNSEL  
5 HIRES SOMEBODY AS THEIR LITIGATION CONSULTANT TO BE THEIR  
6 DOCTOR DAMAGE OF THE CASE AND HE PUTS NUMBERS UP ON THE  
7 BOARD.

8 YOU HAVE TO DECIDE FOR YOURSELF.

9 IS THAT BASED IN REALITY?

10 IS THAT BASED ON THE EVIDENCE?

11 OR IS THAT JUST BASICALLY LIKE COUNSEL GETTING  
12 SOMEBODY UP THERE TO TALK FOR THEM AND PUT UP SOME BIG NUMBER  
13 ON THE BOARD THAT THEN POSES A BIG WINDFALL FOR SOMEBODY  
14 ELSE?

15 AND REMEMBER WHAT MR. BRIGHT SAID WAY, WAY BACK  
16 IN THE BEGINNING OF THE CASE?

17 HE SAID, SOMEBODY SHOULDN'T GET A WINDFALL  
18 BECAUSE OF SOMEBODY ELSE'S DAMAGES.

19 EXCUSE ME. SOMEBODY SHOULDN'T GET A WINDFALL  
20 BECAUSE OF SOMEBODY ELSE'S ACCIDENT.

21 ASSUMING THAT THERE WAS A LEAK FROM THE SHELL  
22 PIPELINES. THERE IS NO EVIDENCE, DESPITE THE SPECULATION  
23 THAT WATSON WOULD INVITE YOU TO ENTER INTO, THAT ANYBODY AT  
24 SHELL KNEW THAT THE PIPELINES WERE LEAKING AT ALL.

25 AND I'LL TALK A LOT MORE ABOUT THAT ON MONDAY.

26 THE EVIDENCE FROM MR. UNDERWOOD WAS THAT THEY  
27 HAD PIPELINERS GOING UP AND DOWN THESE PIPES AND OTHER PIPES  
28 A COUPLE OF TIMES A WEEK IN RESIDENTIAL AREAS, AND INCLUDING

1 IN THIS AREA, BUT AT LEAST ONCE A WEEK THEY TESTED THEM.

2 EVERY TIME SOMEBODY WENT OUT THERE TO DIG, THEY  
3 WOULD OBSERVE THE SOIL TO SEE IF THERE WERE ANY LEAKS.

4 HE SAID THEY WERE REQUIRED TO REPORT THEM. HE  
5 SAID THAT HE WOULD FIRE ANYBODY WHO HE FOUND OUT DID NOT

6 REPORT A LEAK. AND HE SPOKE WITH CONVICTION WHEN HE WAS UP  
7 ON THE STAND ON THAT.

8 SO OF ALL THE YEARS WHEN PEOPLE WERE DIGGING  
9 AROUND HERE, WHEN THEY WERE TESTING THE PIPELINES, WHEN  
10 PEOPLE WERE DRIVING UP AND DOWN THE PIPELINES, HE SAID THAT  
11 HE WAS AWARE OF NO LEAKS OF ANYTHING OTHER THAN THAT ONE  
12 ISOBUTANE LEAK.

13 REMEMBER THAT ONE ICE BLOCK THAT CAME  
14 OUT -- OUT OF THE GROUND?

15 OKAY. THAT WAS THE ONLY ONE THAT WAS EVER  
16 REPORTED TO HIM THAT HE WAS EVER AWARE OF, AND THERE'S NO  
17 EVIDENCE TO THE CONTRARY.

18 AND WE'LL TALK ABOUT THAT.

19 THE ONLY EVIDENCE THAT WATSON OR THE ONLY  
20 INFERENCE THAT WATSON WOULD LIKE YOU TO MAKE IS, GEE, THEY  
21 CHANGED THE PIPELINES FROM -- IN 1973.

22 WELL, I'LL TALK ABOUT THIS MORE ON MONDAY, BUT  
23 REMEMBER WHAT MR. UNDERWOOD SAID?

24 HE SAID THAT HE'S BEEN THERE SINCE 1966. HE  
25 WORKED DOWN THERE IN ALL DIFFERENT CAPACITIES. AND HE  
26 PERSONALLY -- NOT WORKED ON THIS JOB, BECAUSE THAT WAS  
27 NICK SEREGE, WHO, UNFORTUNATELY, HAS PASSED AWAY AND COULDN'T  
28 TESTIFY FOR US.

1 BUT SHELL WAS REPLACING PIPELINES ALL OVER THE  
2 SOUTHERN CALIFORNIA AREA IN EARLY 1970'S, INCLUDING ONES THAT  
3 MR. UNDERWOOD WORKED ON.

4 OKAY. HE TESTIFIED THAT THE NEW PIPELINES  
5 WERE -- HAD A DIFFERENT TYPE OF COATING, THAT ONCE YOU OPEN  
6 UP A TRENCH TO LAY SOME PIPELINES, THAT'S THE MAJOR LABOR  
7 COSTS, AND IT'S CHEAP TO LAY SOME MORE PIPE IN THERE. SO  
8 SINCE THEY'RE GOING TO DO IT ANYWAY, WHY NOT PUT SOME MORE  
9 LINES. HE TALKED ABOUT THAT. AND WE'LL GO OVER SOME MORE  
10 SPECIFICS.

11 BUT WHAT YOU NEVER HEARD ON CROSS-EXAMINATION  
12 FROM HIM AND FROM NO OTHER WITNESS IN THIS CASE WAS ANYBODY  
13 WHO SAW ANY SOIL CONTAMINATION IN AND AROUND THOSE PIPELINES  
14 WHO HAD ANY EVIDENCE THAT THEY LEAKED. AND THAT INCLUDES  
15 WATSON LAND COMPANY.

16 AND I SORT OF WISH I HAD BROUGHT SOME TRIAL  
17 PROPS AS WELL. BUT I'M SURE MRS. BRIGHT SELECTED TWO OF HER  
18 MANY MONKEY STATUTES THAT SHE HAS FOR USE IN JURY TRIALS.  
19 BUT I WANTED TO SAY THAT THIS APPLIES AS WELL TO WATSON'S  
20 ENVIRONMENTAL INVESTIGATION IN THIS CASE.

21 OKAY. WHAT DID THEY DO WHEN THEIR FIRST  
22 CONSULTANTS WENT OUT THERE AND TESTED ALL UP AND DOWN THE  
23 PIPELINES, AND AS DR. DAGDIGIAN ADMITTED, FOUND NOTHING IN  
24 THE SHALLOW SOIL?

25 WHEN DR. DAGDIGIAN WAS HIRED, IN PART FOR HIS  
26 LITIGATION EXPERTISE TO TESTIFY HERE TO CONVINCING YOU THAT THE  
27 PIPELINES WERE LEAKING, DID THEY TAKE ONE BIT OF SOIL  
28 INFORMATION?

1 NO. THEY DID NO TESTING IN AMONGST THE PIPES.  
2 AND I WILL SHOW YOU SOME TESTIMONY ON MONDAY WHERE  
3 DR. DAGDIGIAN TESTIFIED BEFORE YOU THAT HE RECOMMENDED TO  
4 WATSON LAND COMPANY THAT THEY TEST IN AND AROUND THE  
5 PIPELINES. AND WATSON HAS NEVER DONE A MAP FOR WATSON IN AND  
6 AROUND THE PIPELINES, AND HE DIDN'T KNOW WHY. DIDN'T KNOW  
7 WHY. BUT HE ACTUALLY RECOMMENDED THEY GO IN AND THEY DIDN'T.

8 OKAY. SEE NO SOIL; HEAR NO SOIL; SPEAK NO  
9 SOIL.

10 OKAY. THEY LIKE TO CALL THAT AS A RED HERRING.  
11 EVERY FACT THAT'S NEGATIVE FOR WATSON LAND COMPANY, YOU HEARD  
12 IN THEIR CLOSING STATEMENT, THEY TRIED TO DISMISS AS A  
13 RED HERRING.

14 THE OTHER THING THAT IT STRUCK ME ABOUT  
15 THIS -- AND MAYBE I'LL LEAVE YOU ON THIS NOTE -- IS ANOTHER  
16 THING THAT WATSON TRIES TO DISMISS JUST AS A RED HERRING IS  
17 THAT MASSIVE PROBLEM AT ARCO THAT WE'VE SEEN MANY PLUME MAPS  
18 ON, AND YOU'RE PROBABLY TIRED OF HEARING ABOUT IT,  
19 BECAUSE -- BUT THE THING TO KEEP IN MIND IS, IS THAT ONE OF  
20 THE THINGS THAT YOU NEVER HEARD IN THE -- IN THE CLOSING  
21 STATEMENT, OTHER THAN TO JUST SWEEP IT UNDER THE RUG AS A  
22 RED HERRING, WAS ACKNOWLEDGING THE PROBLEM WITH ARCO,  
23 ACKNOWLEDGING THE TESTIMONY FROM THE ARCO WITNESSES,  
24 ACKNOWLEDGING THE DATA THAT WAS GATHERED THAT SHOWS THAT IN  
25 WELL 543, THERE'S A SIMILAR PRODUCT RIGHT OVER IN THE AREA OF  
26 THE B2 PLUME.

27 SO THIS ALSO STANDS FOR WATSON. SEE NO ARCO;  
28 HEAR NO ARCO; SPEAK NO ARCO.

1                   OKAY. AND WE'LL GO OVER SOME OF THOSE THINGS.  
2                   SOME PROPS CAN BE USED IN DIFFERENT WAYS, AND I APPRECIATE  
3                   THAT MRS. BRIGHT BROUGHT THAT IN.

4                   BUT WHEN YOU GO HOME -- BECAUSE I DON'T HAVE  
5                   ANY OF THESE. I HAVE A T-SHIRT WITH FROGS ON IT, BUT I DON'T  
6                   HAVE THESE THINGS.

7                   BUT THINK WHEN YOU GO HOME -- NUMBER ONE, YOU  
8                   HAVE TO KEEP AN OPEN MIND UNTIL THE CASE IS FINALLY ARGUED  
9                   AND DECIDED.

10                  OKAY. SO YOU'VE HEARD A LOT FROM MRS. BRIGHT.  
11                  YOU'VE HEARD ABOUT 15 MINUTES FROM ME, AND I'LL TALK TO YOU A  
12                  LITTLE BIT MORE ON MONDAY, AND HOPEFULLY, I WON'T OVER STAY  
13                  MY STAY ON MONDAY, AND I KNOW YOU WANT TO GET THE CASE, AND I  
14                  CERTAINLY WANT TO BE DONE AS WELL.

15                  BUT KEEP AN OPEN MIND OVER THE WEEKEND. BUT  
16                  THINK WHAT WAS NOT SAID BY WATSON LAND COMPANY IN THEIR  
17                  CLOSING ARGUMENT.

18                  AND THIS IS MY ONE SHOT TO TALK TO YOU.  
19                  THEY -- BECAUSE THEY HAVE THE BURDEN OF PROOF, AS MRS. BRIGHT  
20                  EXPLAINED -- HAVE TO PERSUADE YOU THAT -- IF IT'S EVENLY  
21                  BALANCED, YOU HAVE TO FIND FOR SHELL.

22                  SO THEY HAVE THE BURDEN OF PROOF.

23                  SO THEY GET TO GO AGAIN. AND AFTER I SIT DOWN  
24                  ON MONDAY, MR. BRIGHT WILL GET UP AND HE GETS TO HAVE A  
25                  REBUTTAL SECTION.

26                  HOPEFULLY, IT WILL BE EFFICIENT AND SHORT SO  
27                  YOU CAN GET THE CASE. BUT I'M SURE IT WILL BE, KNOWING  
28                  MR. BRIGHT. HE WAS THE SHORTEST OF ALL OF US ON

1 CROSS-EXAMINATION. AND I'M NOT ONE TO TALK ABOUT THAT, I  
2 THINK.

3 BUT THIS IS MY ONLY SHOT TO TALK TO YOU HERE.  
4 AND WHEN I SIT DOWN ON MONDAY, I WANT YOU TO KEEP IN MIND  
5 WHEN MR. BRIGHT IS TALKING WHAT WOULD MR. LESLIE SAY IN  
6 RESPONSE. WHAT DID THE EVIDENCE SHOW IN RESPONSE.

7 AND YOU'RE GOING TO BE RELIEVED TO KNOW THAT I  
8 WON'T GET BACK UP. AFTER MR. BRIGHT IS DONE, IT'S YOUR JOB.

9 BUT JUST KEEP THAT IN MIND. BECAUSE THERE'S  
10 TWO SIDES TO EVERY STORY, AND WE STARTED OFF THE CASE SAYING  
11 THAT, AND THAT'S JUST AS TRUE RIGHT NOW, AND YOU SAW THAT  
12 THROUGH THE DIFFERENT WITNESSES.

13 I'M SURE SOME WITNESSES, YOU SAID, OH, WELL,  
14 THAT'S A REALLY GOOD POINT, AND THEN YOU HEARD SOMETHING ELSE  
15 ON CROSS-EXAMINATION, OR MAYBE FROM ANOTHER WITNESS, AND  
16 SAID, OH, WELL, THAT'S NOT A BAD POINT.

17 SO YOU HAVE TO WEIGH THINGS, AND THE EVIDENCE  
18 COMES IN IN BITS AND PIECES. BUT AT THE END OF THE DAY,  
19 YOU'LL BE GOING BACK IN THE JURY ROOM, AND YOU'LL BE LOOKING  
20 AT THE ARCO INFORMATION, YOU'LL BE LOOKING AT THE SOIL  
21 INFORMATION, YOU'LL BE LOOKING AT THE MIXED LEAD ALKYLs AND  
22 THE DIPE INFORMATION, YOU'LL BE LOOKING AT THE GROUNDWATER  
23 INFORMATION.

24 AND ULTIMATELY, BECAUSE WATSON HAS CHOSEN TO  
25 BASE ITS CASE ENTIRELY UPON EXPERTS IT HAS HIRED FOR THIS  
26 LITIGATION -- AND YOU HAVEN'T HEARD FROM ONE SINGLE WATSON  
27 WITNESS THAT REALLY KNEW ANYTHING OF HIS OWN PERCIPIENT  
28 KNOWLEDGE, EXCEPT FOR THEY CALLED MR. WEEKS, AND YOU'LL

1 RECALL, HE WAS ONLY HERE TO AUTHENTICATE SOME INVOICES -- I  
2 COULDN'T ASK HIM ANYTHING UNTIL MY CASE IN CHIEF.

3 AND WHEN I CALLED HIM BACK, HE WAS THE HEAD OF  
4 ENVIRONMENTAL AFFAIRS DURING THE RELEVANT TIME PERIOD, AND  
5 WHAT DID HE KNOW?

6 NOTHING. I JUST APPROVED INVOICES, YOU KNOW.  
7 MET WITH THE WATER BOARD?

8 OH, YEAH, I GUESS I DID MEET WITH THE WATER  
9 BOARD.

10 WELL, WHAT DID YOU KNOW ABOUT THAT?

11 WELL, NOT MUCH. I DON'T REMEMBER MUCH.

12 YOU KNOW, THAT'S THE ONLY WATSON PERSON THAT'S  
13 NOT LAWYER OR A PAID EXPERT THAT TESTIFIED IN THE TRIAL.

14 AND YOU HAVE TO KEEP THAT IN MIND WHEN YOU  
15 ASSESS WHAT THEY SAY, WHEN YOU ASSESS HOW THEY INTERPRET THE  
16 DATA.

17 AND I JUST RECALL WHEN THOSE SAME QUESTIONS  
18 THAT YOU JUST SAW AT THE END WERE ASKED OF DR. DAGDIGIAN,  
19 REMEMBER?

20 SHE SAID, DO YOU HAVE ANY DOUBT WHO CAUSED THIS  
21 AT ALL?

22 AND HE SAID, NO. IT WAS THE ARCO REFINERY.  
23 AND THEY SAID, OH, SORRY, SHELL.

24 AND OBVIOUSLY -- DO YOU REMEMBER THAT?

25 AND THAT WAS -- THAT WAS FUNNY AND THAT WAS  
26 OBVIOUSLY A MISTAKE.

27 BUT IT GOES TO SHOW THAT THE ARCO PROBLEM IS A  
28 PROBLEM THAT CAN'T BE IGNORED. AND THE ARCO PROBLEM IS A

1 PROBLEM THAT CAUSE EXPERTS WHO ARE REALLY LOOKING AT THIS  
2 THING, CAUSES THEM SOME THOUGHT.

3 AND I WILL TALK TO YOU ON MONDAY ABOUT WHY I  
4 THINK THAT THE EVIDENCE SHOWS THAT THE SHELL PIPELINES DIDN'T  
5 CAUSE THE CONTAMINATION BUT IT WAS, IN FACT, THE ARCO.

6 BUT I THINK MR. DAGDIGIAN'S OR DR. DAGDIGIAN'S  
7 SLIP WAS INTERESTING, NOT BECAUSE IT'S AN ADMISSION BECAUSE,  
8 OBVIOUSLY, IT WAS JUST A MISTAKE, BUT IT SHOWS HOW CLOSELY  
9 SOMEONE CAN MAKE THAT CALL.

10 AND THAT'S A CALL THAT YOU'RE ULTIMATELY GOING  
11 TO HAVE TO MAKE IN THE JURY ROOM.

12 AND I THANK YOU FOR YOUR ATTENTION.

13 AND YOUR HONOR, I'M THROUGH FOR TODAY.

14 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, DON'T  
15 DISCUSS THE CASE WITH ANYONE; DON'T FORM OR EXPRESS ANY  
16 OPINIONS ON THE CASE UNTIL IT'S FINALLY SUBMITTED TO YOU.

17 WE'LL SEE YOU MONDAY AT 9 O'CLOCK.

18  
19 (THE FOLLOWING PROCEEDINGS WERE HELD  
20 IN OPEN COURT OUT OF THE PRESENCE  
21 OF THE JURY:)

22  
23 THE COURT: ALL RIGHT. I THINK THE JURORS HAVE LEFT.

24 YOU HAD SOMETHING, MR. LESLIE.

25 MR. LESLIE: YES, YOUR HONOR.

26 I REALIZE I'M PROBABLY ARGUING UPHILL ON THIS  
27 ONE, BUT I JUST WANTED TO RAISE A COUPLE OF POINTS JUST FOR  
28 THE RECORD.

1 THE FIRST ONE WAS, YOU'LL RECALL THAT WHEN  
2 MR. SUDERMAN SHOWED HIS CHART THAT HAD THE RETURN TO SHELL  
3 STOCKHOLDERS, I OBJECTED, AND I OBJECT TO THAT AGAIN ON THE  
4 GROUNDS THAT, REALLY, THAT ARGUMENT IS TANTAMOUNT TO ARGUING  
5 NET WORTH AND PROFITS.

6 THEY'RE ARGUING THAT THE SHELL STOCKHOLDERS  
7 MADE ALL THIS MONEY, THEREFORE, YOU SHOULD WHACK SHELL WITH  
8 THESE BIG DAMAGES OVER HERE.

9 SO I THINK THAT WAS INAPPROPRIATE.

10 THE OTHER THING WAS THAT MRS. BRIGHT SHOWED  
11 SOME TESTIMONY FROM DR. SCHMIDT.

12 I THINK FROM OUR QUICK CHECK OF THE COMPUTER  
13 TRANSCRIPT, THAT THAT TESTIMONY WAS TAKEN FROM A COURT  
14 HEARING OUTSIDE OF THE PRESENCE OF THE JURY FROM THE  
15 KELLEY-FRYE HEARING -- AND SHE ALSO -- THE PART THAT SHE BLEW  
16 UP ON THE SCREEN AND LEFT THERE FOR AWHILE TALKED ABOUT HOW  
17 HE WAS REPRESENTED OR HE WAS WORKING FOR SHELL AND MCCOLL  
18 SITE WITH RESPECT TO SOME LITIGATION AGAINST ITS INSURERS.

19 I THINK THAT'S INAPPROPRIATE, AND FOR THE  
20 RECORD, I WOULD MOVE FOR A MISTRIAL ON THAT BASIS.

21 THE COURT: ALL RIGHT. YOUR MOTION FOR MISTRIAL IS  
22 DENIED.

23 MY RULING ON THE FIRST POINT WILL BE THE SAME  
24 AS IT WAS BEFORE.

25 I'M NOT SURE WHAT THE TRANSCRIPT WILL SHOW AS  
26 FAR AS THE KELLEY-FRYE HEARING OR WHERE THAT DATA CAME FROM,  
27 BUT MAYBE BOTH SIDES CAN CHECK IT OUT OVER THE WEEKEND.

28 MR. LESLIE: AND THE LAST POINT, THAT'S A SUBSIDIARY

1 POINT, IS THAT MRS. BRIGHT'S ARGUMENT IN HER CLOSING THAT THE  
2 REASON WHY THE JURY SHOULD AWARD THESE BIG DAMAGES AGAINST  
3 SHELL IS TO DEPRIVE THEM OF THE BENEFIT THAT THEY'VE GOTTEN,  
4 THAT THAT'S PRETTY MUCH, IN MY VIEW, AN ARGUMENT AKIN TO  
5 PUNITIVE DAMAGES AND PUNISHING AND DEPRIVING FOR PURPOSES OF  
6 PUBLIC EXAMPLE A DEFENDANT FROM PROFITING BY SOME  
7 INAPPROPRIATE ACTIVITY.

8 SO I JUST MAKE THE SAME MOTION ON THAT.

9 THE COURT: ALL RIGHT. WELL, YOUR OBJECTION IS NOTED.  
10 AND I THINK SHE DID EXPLAIN THE PROPER MEASURE OF DAMAGES  
11 UNDER THE STATUTE. SO YOUR MOTION'S DENIED.

12 OKAY.

13 MR. LESLIE: THANK YOU FOR YOUR TIME, YOUR HONOR.

14 MR. BRIGHT: THANK YOU, YOUR HONOR.

15 THE COURT: MONDAY MORNING.

16 MS. BRIGHT: THANK YOU, YOUR HONOR.

17  
18 (AT 4:05 P.M., AN ADJOURNMENT WAS TAKEN  
19 UNTIL MONDAY, JULY 16, 2001, AT 9:00 A.M.)  
20  
21  
22  
23  
24  
25  
26  
27  
28



COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

WATSON LAND COMPANY, )

PLAINTIFF-RESPONDENT, )

VS. )

ATLANTIC RICHFIELD COMPANY, )  
ETC., ET AL., )

DEFENDANTS-APPELLANTS, )

) SUPERIOR COURT  
) CASE NO. BC 150161

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE WENDELL MORTIMER, JR., JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

JULY 16, 2001

APPEARANCES:

FOR PLAINTIFF-  
RESPONDENT:

BRIGHT AND BROWN

BY: JAMES S. BRIGHT

MAUREEN J. BRIGHT

BRIAN L. BECKER

550 NORTH BRAND BOULEVARD

SUITE 2100

GLENDALE, CALIFORNIA 91203

818.243.2121

FOR DEFENDANTS-  
APPELLANTS:

CALDWELL, LESLIE, NEWCOMBE & PETTIT

BY: MICHAEL R. LESLIE

ANDREW ESBENSHADE

1000 WILSHIRE BOULEVARD

SUITE 600

LOS ANGELES, CALIFORNIA 90017-5624

213.629.9040

VOLUME 34 OF 37 VOLUMES

PAGES 5628 THROUGH 5865, INCLUSIVE

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LINDA STALEY, CSR NO. 3359, RMR, CRR  
OFFICIAL REPORTER

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 307

HON. WENDELL MORTIMER, JR., JUDGE

WATSON LAND COMPANY, A CALIFORNIA )  
CORPORATION, )

PLAINTIFF, )

VS. )

ATLANTIC RICHFIELD COMPANY, ETC., )  
ET AL., )

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REPORTER'S DAILY TRANSCRIPT OF PROCEEDINGS

MONDAY, JULY 16, 2001

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(AS NOTED ON THE FOLLOWING PAGE.)

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OFFICIAL REPORTER

APPEARANCES:

FOR PLAINTIFF:

BRIGHT AND BROWN  
BY: JAMES S. BRIGHT  
MAUREEN J. BRIGHT  
BRIAN L. BECKER  
550 NORTH BRAND BOULEVARD  
SUITE 2100  
GLENDALE, CALIFORNIA 91203  
818.243.2121

FOR DEFENDANTS:

LAW OFFICES OF DAVID J. EARLE  
BY: DAVID JEFFREY EARLE  
138 NORTH BRAND BOULEVARD  
SUITE 303  
GLENDALE, CALIFORNIA 91203  
818.242.4700

CALDWELL, LESLIE, NEWCOMBE & PETTIT  
BY: MICHAEL R. LESLIE  
ANDREW ESBENSHADE  
1000 WILSHIRE BOULEVARD  
SUITE 600  
LOS ANGELES, CALIFORNIA 90017-5624  
213.629.9040

I N D E X

MONDAY, JULY 16, 2001 .....	5628:3
9:00 A.M.....	5628:7
1:30 P.M.....	5759:7
ARGUMENT (RESUMED) BY MR. LESLIE.....	5635:8
ARGUMENT BY MR. BRIGHT.....	5823:16

EXHIBITS

I.D./EVID. - SMALL VERSIONS OF LARGE EXHIBIT BOARDS -	
3197-A, 3199-A, 3201-A, 3235-A, 3253-A,	
3254-A, 3257-A, 3259-A, 3260-A, 3261-A,	
3262-A, 3263-A, 3264-A, 3265-A, 3266-A,	
3267-A, 3269-A, 3270-A, 3271-A, 3276-A.....	5634:11
WITHDRAWN - 556 - SMALL VERSION.....	5856:8
EVID. - 556.....	5856:9
EVID. - 963.....	5856:10
I.D. 1499-A - OVERLAY OF EXHIBIT 1499.....	5857:6
EVID. - 1499-A.....	5857:7
I.D. 1497-A - OVERLAY OF EXHIBIT 1497.....	5857:8
EVID. - 1497-A.....	5857:9
I.D. 1497-B - OVERLAY OF EXHIBIT 1497.....	5857:10
EVID. - 1497-B.....	5857:11
I.D. 1497-C - OVERLAY OF EXHIBIT 1497.....	5857:12
EVID. - 1497-C.....	5857:13

1 TESTIMONY OF DR. SCHMIDT ABOUT SOME WORK AT THE  
2 ROCKY MOUNTAIN ARSENAL, AND THAT WAS NOT PART OF THE EVIDENCE  
3 IN THIS CASE AND SHOULD BE IGNORED BY YOU AS IF YOU HADN'T  
4 HEARD IT. OKAY.

5 AND MR. LESLIE, CONTINUE.

6 MR. LESLIE: THANK YOU. THANK YOU

7  
8 ARGUMENT (RESUMED)

9 BY MR. LESLIE:

10 EVERYBODY READY FOR WRAPPING THIS THING UP  
11 HERE?

12 AS I WAS SAYING ON FRIDAY JUST IN MY LITTLE  
13 BRIEF TIME THAT I HAD ALLOTTED TO ME, I WANTED TO PREVIEW  
14 SOME OF THE THINGS THAT I WANTED TO KEEP IN MIND FOR TODAY,  
15 AND THEN THAT I'D LIKE YOU TO KEEP IN MIND WHEN YOU GO INTO  
16 THE JURY ROOM, TOO, AND ACTUALLY HAVE A CHANCE TO LOOK  
17 THROUGH THE EXHIBITS AND TALK OVER THE CASE FOR THE FIRST  
18 TIME IN EIGHT OR NINE WEEKS OR HOWEVER LONG WE'VE BEEN HERE.

19 AND ONE OF THE THINGS THAT I WANTED TO STRESS  
20 TO YOU, AND I'D LIKE TO STRESS AGAIN, IS THAT YOU CAN USE  
21 YOUR COMMON SENSE IN TRYING TO MOVE THROUGH THE THICKET OF  
22 TECHNICAL EVIDENCE.

23 YOU HAVE TO PAY ATTENTION TO THE TECHNICAL  
24 EVIDENCE, YOU HAVE TO TRY TO ASSESS THE SOURCE FROM WHICH IT  
25 COMES AND WHAT WEIGHT TO GIVE THAT, ESPECIALLY WHEN IT COMES  
26 TO THE COMPETING CONCLUSIONS FROM THE DIFFERENT EXPERTS.

27 BUT FUNDAMENTALLY, IF YOU APPLY YOUR COMMON  
28 SENSE IN THIS CASE, I THINK THAT YOU'LL COME TO A JUST RESULT

1 THAT'S BASED ON THE VERDICT.

2 AND ONE OF THE THINGS THAT I THINK IT MIGHT BE  
3 USEFUL, TOO, IS TO TAKE A LITTLE STEP BACK.

4 YOU'VE HEARD A LOT OF TECHNICAL EVIDENCE, AND  
5 ~~WATSON'S COUNSEL, IN THEIR OPENING STATEMENT, FOCUSED IN ON A~~  
6 COUPLE OF LITTLE INDIVIDUAL PIECES OF EVIDENCE, AND THERE WAS  
7 SOME NITPICKING OF THE EXPERTS GOING ON, BUT WHAT YOU NEED TO  
8 DO IS YOU NEED TO LOOK AT THE FOREST, NOT JUST THE TREES.  
9 YOU NEED TO LOOK AT THE BIG PICTURE OF THE THING AND SEE WHAT  
10 REALLY THE PUZZLE IS COMING OUT TO BE.

11 BECAUSE WATSON LAND COMPANY WOULD LIKE YOU TO  
12 DISREGARD CERTAIN PIECES THAT ARE VERY IMPORTANT PIECES TO  
13 THE PUZZLE. AND I THINK THE CONCLUSION THAT I'D LIKE YOU TO  
14 REACH AT THE END OF THE DAY IS THAT THE BLANKET ON THE  
15 ELEPHANT IS NOT YELLOW WITH A SHELL ON IT; THE BLANKET ON THE  
16 ELEPHANT IS BLUE WITH A LITTLE ARCO DIAMOND.

17 AND THEN LET ME TELL YOU WHY I THINK THAT IN  
18 JUST A MOMENT.

19 BUT STEPPING BACK AND LOOKING AT THE OVERALL  
20 PICTURE HERE, LET'S THINK ABOUT WHAT WE'VE SEEN IN THIS CASE.

21 WHAT WATSON LAND COMPANY IS ASKING IS, THEY ARE  
22 ASKING FOR -- I GUESS THEY WERE EMBARRASSED IN THEIR OPENING  
23 STATEMENT TO GIVE YOU A NUMBER.

24 REMEMBER MR. BRIGHT DIDN'T GIVE YOU A NUMBER?

25 BUT NOW, THEY'VE OVERCOME THAT EMBARRASSMENT,  
26 AND THEY'VE NOT JUST USED THE DR. DAGDIGIAN'S INITIAL CHART  
27 ON HIS DIRECT OF 67 MILLION, INCLUDING THE BENEFIT TO SHELL,  
28 BUT NOW THEY'RE TRYING TO INCREASE THAT TO 122 MILLION.

1                   AND AS I POINTED OUT, YOU KNOW, THAT'S REALLY  
2                   SO FAR OUT OF THE BALLPARK THAT IT'S OUT IN THE OZONE IN  
3                   TERMS OF ANYTHING THAT'S JUSTIFIED EITHER BY THE EVIDENCE OR  
4                   BY, YOU KNOW, ANY REASONABLE APPLICATION OF THE FACTS IN THIS  
5                   CASE.

6                   AND THEY'RE ASKING FOR THAT AMOUNT OF MONEY IN  
7                   A CASE WHERE THEY KNEW ABOUT ARCO'S OFFSET WELLS. THEY KNEW  
8                   THAT IN 1990 WHEN ARCO TOOK ITS FIRST DATA. THEY FOUND  
9                   WELL 543 HAD BENZENE OF 17,000 PARTS PER BILLION.

10                  THEY KNEW WHEN THEY MET WITH THE REGIONAL  
11                  BOARD, THE ONLY TIME THEY MET WITH THE REGIONAL BOARD IN 1996  
12                  WHEN MR. WEEKS MET WITH THE REGIONAL BOARD, THAT THERE WAS  
13                  OFF-SITE CONTAMINATION. THEY HAD ACCESS TO ALL OF THAT  
14                  INFORMATION FROM ARCO.

15                  MR. TESTA SAID HE HAD NUMEROUS CONVERSATIONS  
16                  WITH PEOPLE AT WATSON LAND COMPANY IN WHICH THEY TALKED ABOUT  
17                  EXPANDING THE SPACE THAT THEY WERE RENTING FROM WATSON LAND  
18                  COMPANY BECAUSE OF ALL OF THE WORK AT ARCO.

19                  SO WATSON KNEW THAT ARCO HAD HUMONGOUS PROBLEMS  
20                  BACK IN THE LATE 80'S, EARLY 90'S. THEY KNEW THAT ARCO WAS  
21                  UNDER A CLEANUP AND ABATEMENT ORDER BY THE REGIONAL WATER  
22                  QUALITY CONTROL BOARD TO BOTH INVESTIGATE AND REMEDY OFF-SITE  
23                  CONTAMINATION.

24                  THEY KNEW THAT ARCO HAD COME ONTO THEIR SITE,  
25                  DRILLED ALL OF THESE WELLS. THERE'S PROBABLY 10 OR 11 OF  
26                  THESE WELLS, AND THEY KNEW THAT ARCO WAS COLLECTING DATA.

27                  OKAY. AND IN ALL THAT, SINCE ALL THAT TIME,  
28                  WHAT HAS WATSON DONE TO REMEDY THE PROBLEM?

1                   NOTHING.

2                   CONSISTENT TESTIMONY IN THIS CASE IS THAT THEY  
3                   HAVEN'T SPENT ONE NICKEL ON REMEDIATION OTHER THAN HAVING  
4                   THAT ONE MEETING WITH LEVINE-FRICKE IN 1996 AND WITH  
5                   MR. WEEKS.

6                   THEY HAVEN'T TURNED IN ANY OF THE SUBSEQUENT  
7                   DATA TO THE REGIONAL WATER QUALITY CONTROL BOARD.

8                   THEY HAVEN'T ASKED -- THERE'S NO EVIDENCE THAT  
9                   THEY'VE ASKED THE REGIONAL WATER QUALITY CONTROL BOARD TO ASK  
10                  SHELL TO GO THERE AND CLEAN THAT UP.

11                  AS A MATTER OF FACT, ALL OF THE EVIDENCE IN THE  
12                  CASE PRIOR TO THE ARCO SETTLEMENT -- AND WE WENT OVER A LOT  
13                  OF DOCUMENTS -- WAS THAT WATSON WAS SUING ARCO FOR FRAUD IN  
14                  THIS CASE CLAIMING THAT THEY DIDN'T DISCLOSE THINGS. THEIR  
15                  DISCOVERY RESPONSES, THEIR STATEMENTS TO THE REGIONAL WATER  
16                  QUALITY CONTROL BOARD, STATEMENTS IN VARIOUS INTERNAL  
17                  DOCUMENTS, ALL SAID ARCO IS THE PRIMARY CAUSE OF THE  
18                  CONTAMINATION.

19                  THEN ALL OF A SUDDEN, THEY SETTLE.

20                  THEY HIRE DR. DAGDIGIAN AND HIS TEAM. THEY  
21                  COME IN, AND DR. DAGDIGIAN TESTIFIED -- AND I'LL SHOW YOU THE  
22                  TESTIMONY -- THAT HE KNEW WHEN HE WAS HIRED THAT THE POINT OF  
23                  HIS TRIAL TESTIMONY WAS GOING TO BE TO TRY TO SAY THAT IT'S  
24                  THE SHELL PIPELINES AS OPPOSED TO ARCO.

25                  SO THERE'S BEEN A CHANGE OF POSITION, AND IN  
26                  ALL THAT TIME, IF THIS WAS SUCH A PROBLEM THAT WAS  
27                  INTERFERING IN SOME SUBSTANTIAL AND ACTUAL WAY WITH WATSON  
28                  LAND COMPANY'S USE OF ITS PROPERTY, WOULDN'T THEY HAVE DONE