

NOTES OF MEETING OF COMMITTEE
OF GENERAL COUNSEL HELD ON
SEPTEMBER 10, 1981

Present were the following General Counsel:

Witt, Stevens, Jamie Cherry, Fred Newman and a representative of Brown & Williamson.

Also attending were the following litigating lawyers:

Brown, Jacob, Finnegan, Birridge, Shinn, Beanson, Northrup and FPD.

1. Special Projects -

Jacob Cronk called, said he had received a communication from Arthur Stevens who wanted a thorough-going understanding of what was happening and that there ought to be a meeting on the subject. Jacob then defined the special projects and their origin in litigating lawyer needs.

Purposes: 1 - develop witness - stimulate the interest of doctors.

2 - develop information re gaps in knowledge.

Brown Jacob made a fair statement. Not all of these people make good witnesses but they are valuable. E.G., Eleanor MacDonald who knows many people, has ideas, and is sympathetic. Lawyers cannot testify; we need people who can.

Stevens It is timely to re-examine the special projects. Want to make it invulnerable to attack. He is concerned with degree to which we make advocacy primary and science becomes secondary. He knows it is difficult to find witnesses. He is concerned over the fact that some

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names appear on the list time and again; such as Sterling, Furst, Aviado, who will start to lose credibility for themselves and for us. He is concerned about the quality of the science to cultivate witnesses.

Watt Asked how recommendations come to the attention of the lawyers.

Answer Procedure described.

Watt Should we meet on a regular basis to discuss special projects? We might want to widen the circle of recipients of money.

Shinn If Mastenbaum spots someone, he lets us know. CTR has recommended people in the past. Meeting of lawyers has not been done but this creates no problem in terms of coordination but too much red tape creates a problem.

Stevens He is sure lawyers are getting input from the various companies.

Jacob Science is strange and is not clear cut. Refer Langston's work re wave theory. CTR would not have financed any of his work but his work has been published and he has testified about it in Congress and at trials.

Stevens I have to answer to management and I can only get so far by leaving it to lawyers. There is a paucity of information. I need more fullsome discussion. What kind of work is really being done? I am also concerned that

sometimes a project appears to be small at the start and then grows into a huge project in the future and no one tells me what to expect. I would like to have shorter projects which are narrower in scope. If it is a long term project, I would like to decide that at the start and not get a year or two into it before I find we are hooked forever more.

Jacob If you have a doctor, you have to keep him busy or he will lose interest. Sterling has been enormously helpful. Perkson receives a small check and he has been helpful.

Witt Maybe the approach ought to be advocacy first and science second.

Stevens Two other factors that concern me:

1. I need to know what the historical reasons were for the difference between the criteria for lawyers' special projects and CTR special projects.
2. I understand that there will be times when we need to get money into the hands of a researcher like Janus, but I would rather not create a project that does not make any sense("pseudo science").

Jacob When we started the CTR Special Projects, the idea was that the scientific director of CTR would review a project. If he liked it, it was a CTR Special Project. If he did not like it, then it became a lawyers' special project.

Stevens He took offense re scientific embarrassment to us, but not to CTR.

Jacob With Spielberger, we were afraid of discovery for FTC and with Aviado, we wanted to protect it under the lawyers. We did not want it out in the open.

Finnegan The Joe Janus project is a top scientific project. The work described a mathematical model to support Langston's cohort observations.

Decker Joe Greer has similar concerns as Arthur Stevens.

Brown Arthur Stevens' concerns are real ones.

Stevens Use example of Dr. Evans' project. The work is similar to Eysenck. Why do we need to spend money to duplicate work? He realized that we want to get money into the hands of a young man. He realized that there are some criticisms of extrapolating work in one country to another country. Why not have something else for people to do?

Jacob Dr. Evans is working about statistics on people who have quit smoking. The Epidemiology is that when you take away smoking, the risk goes down. This is an argument for causation. Eysenck & Seltzer say that people who quit smoking are different people. Eysenck had it in the appendix in his book but thought it needed more research.

Stevens He is worried about going down the road and not having a full discussion of the basis of the proposal. I learn from full discussion.

Witt Suggest regular meetings?

Newman No. We do not need more meetings.

Stevens We need something, especially if the full story is not explained in the proposal.

Shinn There are not enough witnesses. It is difficult to find new witnesses. He objected to administrative expenses.

Brown Exactly when you need it on paper, you don't want it on paper. These projects are not embarrassing to us.

Stevens He is concerned if the science is not worth a damn.

Brown The issue is what conclusion you draw from this. Science is an argument.

Witt We could agree to give an amount of money per year on a budgeted basis. The Ad Hoc Committee could report back each year on how they spent it. Do we need to get more accountability?

Stevens I would like to have the Ad Hoc Committee come to the Committee of Counsel.

Witt Decided.

Shinn I am not happy with red tape. Can make it non-exclusive?

Stevens Shinn is worried because he says it will be an

Jacob Described the procedure from first meeting with a potential witness. When do you first want to know about it?

Northrip I suggest that we continue the same procedure, but if you want to discuss it, we will discuss it at a meeting.

Consensus Agreed.

2. Status of Cases -

Jacob Arceneaux was decided by the jury which found there were no physical problems. He is age 72, still smokes. The jury decided to award \$150,000, diminished by \$50,000 contributory negligence. Workman's firm interviewed the jury which decided to award damages on the ground that there was a mental injury. Plaintiff feared his risk of getting cancer was increased by exposure to asbestos. The plaintiff had already collected \$33,000 in settlements before trial. Also, F. Lee Bailey is now officially coordinating litigation for Commercial Union on a nationwide basis. Brian Ahearn of LaFollette's office is not attending plaintiff's depositions.

3. NCI Workshop on Side-Stream Smoke -

Stevens Dr. Spears at Lorillard said that Tom Owens, Gory's assistant, called Spears. NCI received a grant application re side-stream smoke and exposure of humans. NCI proposing to have workshop on September 30. Those invited are: Sellikoff, McMahon, Hammond, Gerin, Wynder, Mantell, Hoffman, Garfinkel, Tso, Brown, Dr. Spears and Tom Osdene. Spears recommended that he go because he can influence direction.

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Shinn Epstein who made the application is in touch with Panzer at TI. He made anti-tobacco statements at hearings in Chicago. He now claims his views on side-stream smoke may not have been accurately reported. Some have suggested he has backed off some of his statements in Chicago.

Finnegan Epstein is uncontrollable, zealous, irresponsible.

Jacob He will not help us. If Dr. Spears goes, he may stop us from attacking it later.

Stevens I am inclined to let them go.

4. Literature Retrieval Division -

Shinn A working committee report was submitted to the Ad Hoc Committee but I will not distribute it to companies at this time. We need to study it. Need to recommend something to the General Counsel. However, there may be some value in examining general views on the possibility of a move of LRD out of CTR. I understand there is a disagreement re TLF. There may be value to try to determine what we do philosophically.

Witt Should we take a straw vote? I do not know enough to have an opinion. Therefore, I think LRD ought to stay where it is.

Stevens What's the problem?

Brown We thought it ought to move. We are behind in preparing for the witnesses in asbestos cases.

Shinn There is some concern on Jacob's part that the report may not correctly state the ownership situation. The report concludes that LRD is owned by the companies and Jacob believes it is owned by CTR.

Brown Regarding the asbestos cases, Asbestos has prepared defenses that the plaintiff smoked. They have a formidable array of witnesses and we need a large paralegal capability.

Discussion re status of 20 Asbestos Witnesses

1. Need for work product protection means that these files should not be at LRD now.
2. Have to have TLF & LRD work together to find out what we now have.
3. We are moving forward and will make more strides in the next few weeks.

Jacob The question is, if not here, where? Theoretically, it would be less vulnerable but it might be more vulnerable.

Newman We have to hire people. Where will they work, etc. What are they going to do?

Jacob Gilier is not as good an administrator as we need. We need to use Hobbs as administrator.

Stevens This should not stop us.

Newman Come back with a recommendation.