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Renowned UAlbany PCB researcher on 'alternate assignment'

David O. Carpenter, a public health physician, became target of disciplinary investigation last year after law firm for PCB manufacturer asked for his records

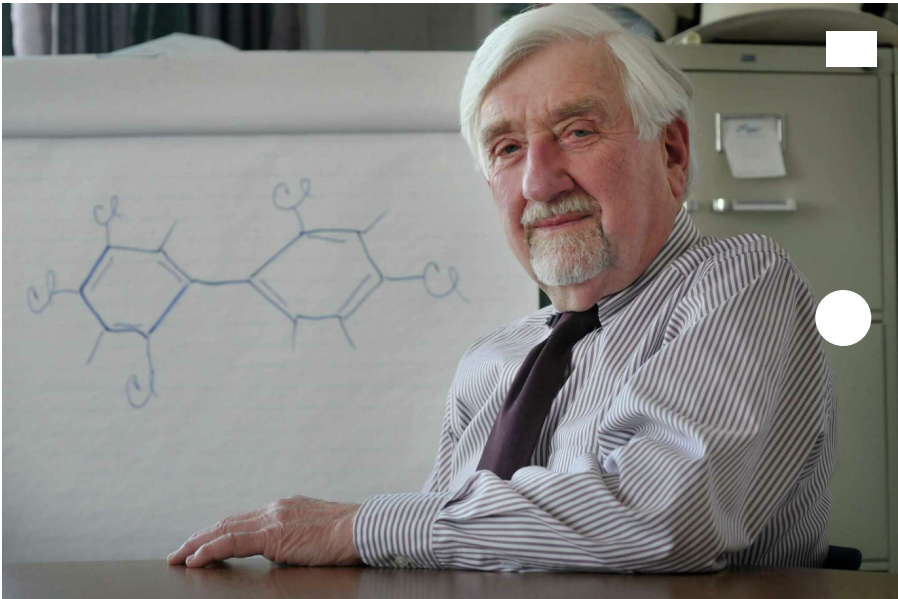


Brendan J. Lyons

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Dr. David O. Carpenter, director of the Institute for Health and the Environment at the University at Albany, is facing a disciplinary investigation prompted by a request for his records that was filed a year ago by an attorney with Shook Hardy & Bacon, a Missouri law firm that represents Monsanto Company in toxic pollution cases. (Paul Buckowski / Times Union)

Paul Buckowski

ALBANY — [David O. Carpenter](#), the founder and longtime director of the Institute for Health and the Environment at the state University at Albany, was quietly placed on “alternate assignment” nine months ago, a status under which he was instructed to not visit any campuses and to perform his duties from home as the school investigated his extensive work testifying as an expert witness in toxic pollution cases.

The ongoing disciplinary investigation was prompted by a Freedom of Information Law request filed a year ago by an attorney with Shook Hardy & Bacon, a Missouri law firm that represents Monsanto Company in toxic pollution cases it has faced across the nation.

The chemical company has frequently faced off against Carpenter when he has testified as an expert in civil actions in which the plaintiffs are usually [alleging they have suffered serious health consequences](#) due to exposure to toxic substances. Monsanto has paid billions of dollars through court verdicts and settlements related to its manufacturing of PCBs — or polychlorinated biphenyls — and other biochemical products. Nearly all PCBs in the U.S. were

produced by Monsanto before the chemicals were banned by the U.S. Environmental Protection Agency in 1977.

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Carpenter’s research on PCBs began nearly 40 years ago. He was the former director of the state Health Department’s Wadsworth Laboratory in Albany, a position he left in 1986 to become the founding dean of UAlbany’s School of Public Health. In that role, he directed a multi-year study on the health effects of exposure to PCBs that was funded by the National Institute of Environmental Health Sciences. Court records indicate he has over 400 peer-reviewed publications in the fields of neuroscience and environmental health and has been active in training and research.

Monsanto’s law firm filed its request last year seeking a trove of records related to the 86-year-old public health physician’s research at UAlbany, including information about any compensation or other benefits that he or the university have received from his testimony in toxic pollution cases. With the consent of top university officials, Carpenter has for two decades arranged for the money he has received for testifying as an expert witness (minus travel expenses) to be funneled back to the university to assist his graduate students, staff and research programs.

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For most of that time, the money was diverted into a special account at the SUNY Research Foundation, a nonprofit educational corporation that administers grants and other programming for the state university system. But a few years ago, Carpenter said, they discovered Internal Revenue Service regulations prohibited the disbursement of what was considered his personal funds into a research account.

Carpenter, who said he received about \$200,000 in compensation last year for his expert testimony, said that he consulted with the university's vice president for research to find other options for directing the payments into the health and environmental sciences program. They explored diverting the money through the UAlbany Foundation, but it wasn't an option, and learned that both the university and Carpenter faced potential tax consequences if the payments were made directly to him and then provided to students and research staff.

Carpenter said they settled on a plan to have the law firms pay the students and staff directly.

There are limited resources available from the university for graduate student support, according to Carpenter; his department, Environmental Health Sciences, receives three stipends annually for Ph.D. student support, and only for their first year. After that, students must find a faculty member with a grant or other means of support. He said the expert witness funds have enabled him to support numerous students and two senior staff members.

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In a recent interview, Carpenter characterized the toxic tort law firm's request for his financial records as "a reasonable request for Monsanto, because one of the reasons I'm such an excellent expert witness is not only is it my own research, but I can always honestly say I don't accept money myself, except travel expenses, and I use the funds to support my students and staff. There have been a few exceptions along the way, but that's almost totally true."

After he was placed on restricted duties last year, Carpenter said university officials came to his office and removed files that included his expert reports, depositions, invoices and other financial records. He charges \$400 an hour for his private consulting work and said the money has been used to help his master's and Ph.D. students with tuition and living expenses, as well as to support staff and research studies.

"It's grown over time," he said of his consulting work. "I provided all the invoices. They came to my office and emptied the three file cabinets for legal activity and carted it away. From my perspective, it should have taken them an afternoon to go through my invoices and see that I wasn't lining my pockets."

Irreversible damage

Susan L. Werstak, an attorney who filed the records request on behalf of the Midwest law firm, did not respond to written questions about what prompted her inquiry. It was filed around the time Carpenter was being deposed or providing trial testimony in several lawsuits filed against Monsanto, which is owned by Bayer Pharmaceuticals.

In June 2021, eight months before the law firm filed its request for Carpenter's records, he had testified in a toxic tort trial in the state of Washington involving PCB contamination at a school 30 miles northeast of Seattle. Dozens of teachers and students there had alleged PCB exposure from contaminants that leaked from fluorescent light fixtures and construction materials had left them with brain damage. His testimony was considered integral to the \$185 million judgment leveled against Monsanto in that case on behalf of three teachers.

"I can't tell you what concentration in the brain would cause clinically observable disease, because we really don't have that information in studies in humans. But PCBs in the brain are not a good thing, at any level," Carpenter testified during the trial. "There is increasing evidence in studies of exposure of children to chemicals that cause reduction of IQ ... (and) that a child exposed early on to a chemical that causes reduction of IQ never reaches the same cognitive potential than someone that's not exposed, which implies that some of these effects are irreversible."

His testimony eight months ago in Washington was among three trials in that case in which he had testified about the health effects of the school's PCB pollution on students and teachers — and in each of those cases there were verdicts against the chemical company. But after he became the subject of the ongoing disciplinary investigation last year, the plaintiffs' attorneys have not had him testify in subsequent trials related to the school.

"It was very clear that I was the favorite of the jurors in the first three cases because of the fact I wasn't taking money myself," Carpenter said. "It is noteworthy that since I have been placed on 'alternative assignment,' I have not been invited as an expert in the ongoing cases.

This is precisely what Monsanto hoped to achieve."

Other litigation against Monsanto that has involved Carpenter includes a case in which the Saint Regis Mohawk Tribe filed a complaint against the company and its corporate successors alleging the tribe and its members have an increased risk of cancer and other diseases due to PCB exposure, in part, from eating fish taken from contaminated waters. The pollution is alleged to have come from Superfund sites adjacent to the sprawling Akwesasne tribal lands that straddle the U.S.-Canadian border in northern New York.

Carpenter's expertise in that case was buttressed by his involvement in a study examining PCB contamination from a General Motors Foundry Site in Massena, St. Lawrence County, that closed in 2009. The plant was directly adjacent to the Mohawk Nation of Akwesasne, and Carpenter's research included health studies of the Mohawks and animal toxicology studies examining the effects of PCBs on the nervous, immune and endocrine systems. Two other aluminum foundries in that area also were blamed for leaking PCBs into the St. Lawrence River from hydraulic fluids they used.

Carpenter and his attorney, Robert T. Schofield of Albany, said they suspect the company's attorneys were either seeking to silence the Harvard-educated public health physician or to undermine future testimony. When he's testifying, Carpenter is routinely asked about his compensation; he said that he notes nearly all of the money he receives as an expert witness is funneled back to the university to assist students, staff and research programs.

"My biggest concern about this whole thing — and there are a whole series of aggravations — is that it's my students who have really suffered the most," Carpenter said.

James McCardle, who is entering his fifth year as a Ph.D. student in the Department of Environmental Health Science, said that he has benefitted from the financial assistance he received from Carpenter's expert testimony payments, but that it is the professor's co-mentorship that has been most important.

"I've been working with him for about three years," said McCardle, who is pursuing a Ph.D. in environmental toxicology. "It is extremely helpful to have people with as much experience as they have ... (and) to be able to learn from people who have been doing this as long as they have is extremely valuable, and it's been unfortunate that we have not been able to engage with him on a daily basis."

McCardle said that without financial support, it's very hard for students in the grueling program to support themselves. But he said it's the direct interaction with mentors like Carpenter, whom he described as a "world-class" (expert) in his field, that "plays a critical role in our progress through the program. ... I'm in the program to become an expert in this field."

Under attack

Last year's records request by Shook Hardy & Bacon was not the firm's first outreach to UAlbany about Carpenter. He said the law firm had filed an earlier request for records related to his research on the health conditions among Mohawk tribal members. Although there was little fallout from that inquiry, Carpenter said, the company's second request filed last February set off the disciplinary investigation that has left him only able to communicate remotely with his students.

Monsanto is not the only major company that has challenged Carpenter's research.

In 2014, a spokesman for General Electric Corp., responding to [a months-long Times Union investigation](#) into that corporation's pollution of the Hudson River with PCBs, questioned Carpenter's credibility, saying: "Judges in three states have found David Carpenter's opinions too unreliable for a jury to consider as evidence. Given this, the Times Union is obliged to re-evaluate whether he is truly qualified to render an opinion on GE's views."

At the time, Carpenter had been retained as an expert witness by the Saratoga County river communities suing GE for PCB pollution. At the time, he was a member of the World Health Organization panel that a year earlier had declared PCBs are a human carcinogen.

"The issue is that in addition to cancer, we now have such strong evidence that PCBs alter a large number of other organ systems," Carpenter told the Times Union in 2014. "PCBs affect the brain and reduce learning ability. This has been demonstrated repeatedly in children exposed to PCBs, often exposed even before birth where they get PCBs from their mother's body and from breast milk. ... PCBs are very dangerous chemicals, and anybody that says they are not dangerous simply is not telling the truth or just does not know what studies have been done."

Jordan Carleo-Evangelist, a spokesman for UAlbany, issued a statement last week in response to questions about Carpenter's disciplinary investigation, saying their policy is to not comment on personnel matters.

"However, we can confirm that Dr. Carpenter remains employed by the University at Albany, serves as the principal investigator on his research grants, has been actively mentoring Ph.D. students and was expected to teach a course this semester before the course was canceled because it did not meet the minimum threshold for enrollment," he said.

Schofield, Carpenter's attorney, said his client's expert testimony "has caused Monsanto to pay out many millions of dollars in damages due to PCB contamination."

"We have no doubt that Monsanto and its allies have sought, and will continue to seek, ways to discredit Dr. Carpenter's testimony in future cases," he added. "Dr. Carpenter believes that the FOIL requests filed with the university were part of those efforts to undermine him, and the fact that the university reacted by stifling the teaching and research of its own lauded faculty member and nationally recognized expert for the last eight months demonstrates how effective those efforts can be."

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