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April 24, 2017

Via email only

Hon Vincent Chhabria

U.S. District Court, Northern District of California

In Re: Roundup MDL

Judge Chhabria:

Plaintiffs request a telephonic hearing today to address Jess Rowlands refusal to answer certain questions at deposition regarding his post-EPA employment. Plaintiffs request that the hearing occur today as soon as possible, so that the issue can be resolved and a second deposition avoided. After a great deal of discussion among parties and non-parties, motions practice, and significant interest from the public, the deposition of Jess Rowland began today. As the Court knows, the deposition was sought by Plaintiffs beginning in June 2016, and those efforts led the USA to issue an authorization letter (attached hereto), permitting testimony by Mr. Rowland on four focused topics regarding his work at EPA.

Importantly, the USA was very clear it took no position on that topic #5, “Mr. Rowland’s departure from EPA in or around May 2016 and subsequent activities working for or communicating with the chemical industry”, writing:

The agency takes no position on your testimony related to activities that occurred after your retirement from the agency so long as those post-employment activities do not contain EPA equities or information acquired in scope and performance of your official EPA duties.

Indeed, with respect to that subject area, Mr. Rowland is no different from any ordinary fact witness; no *Touhy* authorization was required from USA or by the Court; he is under subpoena to give testimony on that subject

As discussed at length in recent briefing by Plaintiffs, Monsanto has found that the most effective way to defend glyphosate products is to have third parties publich, communicate, etc., through a series of intermediaries (three quick examples: ghostwriting, the “Let Nothing Go” program firing facebook skills through intermediaries, and the financing of science-y sounding organizations such as the Genetic Literacy Project).

Plaintiffs likely agree with Monsanto on something; that Monsanto is excellent at what it does, and employs some of the savviest businesspeople in the industry. If Mr. Rowland received any recompense for assisting Monsanto at EPA, it certainly would not have come in the form of a check from Monsanto Company; it would be, for example, a lucrative post-retirement contract “consulting” for

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another entity, such as Crop Life America, the American Council on Science and Health. More likely, his “consulting” work runs through a whole series of intermediaries but tracks back to Monsanto.

Mr. Rowland’s counsel corresponded with plaintiffs multiple times prior to deposition stating that he is not consulting for Monsanto since his retirement, and that he needn’t be questioned on his consulting work any further. Plaintiffs indicated their intent to ask those questions nonetheless, and stated that they would seek sanctions if the witness refused to answer these simple, relevant, unprivileged questions.

Mr. Rowland is not a party to this deposition, he is a crucial fact witness and understanding his bias, and thus the EPA’s, toward Monsanto is the reason for this deposition. Topic #5 unquestionably falls within the parameters of Rule 26, particularly “considering the importance of the issues at stake in the action.”

Mr. Rowland indeed refused to answer questions about who he has been working for since his retirement from EPA. Monsanto wrote in October 2015 that Mr. Rowland “could be very useful to us” after his retirement for the defense of glyphosate.

Plaintiffs’ therefore request a telephonic hearing to with the Court

DATED: April 24, 2017

Respectfully submitted,

/s Michael Miller

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