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FILED VIA ECF

Honorable Vince Chhabria
United States District Court,
Northern District of California

RE: Case No: 3:16-md-02741-VC, In re Roundup Products Liability Litigation

To the Honorable Vince Chhabria:

Pursuant to PTO 16, the depositions of two fact witnesses are noticed to occur on May 3, 2017 (in two days): Dr. Jameson and Dr. Ross. The Federal Rules of Civil Procedure state that “unless otherwise stipulated or ordered by the court, a deposition is limited to one day of 7 hours.” Fed. R. Civ. P. 30(d)(1). Dr. Ross’ counsel informed undersigned counsel that he intends to enforce the federal one day, 7-hour time limit. It is anticipated that Dr. Jameson will similarly enforce the limitation as well. Plaintiffs’ counsel made a request to Monsanto’s counsel that the 7-hours be split equally between the parties, with each side allowed 3.5 hours of questioning. Because Monsanto refused, and given the impending commencement of the depositions, Plaintiffs are forced to seek immediate judicial assistance.

The Federal Rules of Civil Procedure state that “unless otherwise stipulated or ordered by the court, a deposition is limited to one day of 7 hours.” Fed. R. Civ. P. 30(d)(1). The MDL 2741 Deposition Protocol adopts the presumptive federal limit of one day, 7 hours. PTO 7, Para 18(a). MDL Deposition Protocol further allows the noticing side 7 hours of examination, absent agreement of the parties or an order by the Court based on a showing of good cause and states that examination by the non-noticing side shall not count against the 7-hour limit for the noticing party. PTO 7, Para. 18(b). Section 18(b) was contemplated for current and former Monsanto employees, not third party witnesses. As third party witnesses, neither Dr. Ross nor Dr. Jameson participated in negotiating the MDL 2741 Deposition Protocol and neither has agreed to Para 18(b), which allows the noticing party 7 hours.

Here, good cause exists for an Order requiring the parties to split the one day, 7-hour deposition because both Dr. Ross and Dr. Jameson are being deposed as third party fact witnesses on a limited topic: IARC 112 Monograph. Further good cause exists because Dr. Ross’ attorney has informed MDL 2741 counsel that he intends to enforce the one day, 7-hour federal time limit, and it is anticipated Dr. Jameson will enforce the federal presumption as well.

The parties have met and conferred and are at an impasse. Given that the depositions are scheduled to commence in less than 48 hours, and counsel must travel long distances to the deposition, Plaintiffs’ request immediate judicial assistance. Undersigned counsel are available

for a forthwith teleconference with the Court. Monsanto's counsel has informed Plaintiffs' counsel they are available for a call after 2:30 EDT today, May 1, 2017.

Dated: May 1, 2017

Respectfully submitted,

/s/ Aimee H. Wagstaff

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