

From: [Timothy Litzenburg](mailto:TLitzenburg@MillerFirmLLC.com)
To: "[Norris, Raven \(USACAN\)](mailto:RNorris@usa.doj.gov)"; "[Stilp, Mark](mailto:Stilp.Mark@epa.gov)"; "[Stewart, Andrew](mailto:astewart@velaw.com)"
Cc: [Michael Miller](mailto:MMiller@millerfirmllc.com); [Jon Jacobs](mailto:jjacobs@jjacobsllc.com)
Subject: RE: Deposition of Jess Rowland
Date: Monday, March 27, 2017 10:08:01 AM

Raven,

We are in agreement on the list of topics approved by USA. If you would like to issue the formal letter today or tomorrow, I can let the Court know the motion is now moot.

Timothy

From: Norris, Raven (USACAN) [<mailto:Raven.Norris@usdoj.gov>]
Sent: Friday, March 24, 2017 6:24 PM
To: Timothy Litzenburg; 'Stilp, Mark'; 'Stewart, Andrew'
Cc: Michael Miller; Jon Jacobs
Subject: RE: Deposition of Jess Rowland

Good Afternoon everyone,
Please find attached correspondence relaying the EPA's position regarding its willingness to authorize testimony on the below proposed topics with some modifications. Please let me know if you have any questions.

Raven M. Norris
Assistant U.S. Attorney
Northern District of California
450 Golden Gate Avenue
San Francisco, CA 94102
Office: (415) 436-6915
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Raven.Norris@usdoj.gov

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From: Timothy Litzenburg [<mailto:TLitzenburg@MillerFirmLLC.com>]
Sent: Tuesday, March 21, 2017 12:02 PM
To: 'Stilp, Mark' <Stilp.Mark@epa.gov>; Norris, Raven (USACAN) <rnorris@usa.doj.gov>; 'Stewart, Andrew' <astewart@velaw.com>
Cc: Michael Miller <MMiller@millerfirmllc.com>; Jon Jacobs <jjacobs@jjacobsllc.com>

Subject: RE: Deposition of Jess Rowland

Counsel

Thank you for this afternoon's call. We came into it expecting to set a date for this deposition, which was first requested in the summer of 2016. We are disappointed to have no date coming out of the call, due to the failure of Mr. Rowland's personal counsel to provide any available dates.

Separately with Ms. Norris and USA, we have previously made the scope of deposition narrower than the subpoena; and we will again narrow the topic list, as set forth below:

1. Mr. Rowland's time/role on CARC from May 2014- May 2016, focusing on communications with Monsanto employees, Monsanto ex-employees, lobbyists or other agents or contractors, as well as CroLife and CroLife America, whether written, verbal, or in person, concerning glyphosate or glyphosate-based formulations.
2. Mr. Rowland's contacts from May 2014- May 2016, with anyone at ATSDR or the National Toxicology Program concerning glyphosate or glyphosate-based formulations
3. Mr. Rowland's contacts with anyone involved in the IARC meetings or monograph concerning glyphosate
4. Mr. Rowland's involvement with the creation of the CARC glyphosate memo on carcinogenicity dated October 1, 2015 and the circumstances around the 'inadvertent release' and subsequent retraction of that report in or around April and May 2016.
5. Mr. Rowland's departure from EPA in or around May 2016 and subsequent activities working for or communicating with the chemical industry.

Mr. Rowland is not a party to this litigation, and this is a very pointed fact discovery inquiry. We are not aware of any authority giving a third party fact witness a right to his own discovery prior to complying with a valid subpoena. You have all the documents that we have filed in conjunction with seeking the deposition; they were all unsealed last week. I'm sure you will give excellent advice to your client, but all we are seeking from him is his testimony on the above subjects, and any personal, non-EPA documents on those subjects that he has in his own dominion or control. His desire to initiate a FOIA process with his own employer, nearly a year after this subject was broached, is of no moment to the force of subpoena and the pending motion, and unfortunately appears to be quite transparently dilatory.

Ms. Norris may interject here, but I am guessing that if we reach agreement on the Touhy authorization, she will be amenable to providing the two (2) documents we have requested from EPA to you at the same time she provides them to plaintiffs.

Having been unable to even select a date for deposition on today's call, we have agreed to confer yet again at 2:00pm on Thursday. Andrew and Jon, please provide a deposition date on that call, or we will have no choice but to immediately make additional filings to enforce the subpoena. The Court has consistently enforced an efficient scheduling order in this case, and we have an obligation to our clients as well as the tribunal to get this accomplished.

Lastly- if there is a third party that you (Jon and Andrew) represent, other than Mr. Rowland himself or who has agreed to pay you for any of your work in this matter, we would appreciate if you would disclose that now; no doubt it will become germane to the continuing motions practice.

Regards,

Timothy Litzenburg

From: Stilp, Mark [<mailto:Stilp.Mark@epa.gov>]
Sent: Tuesday, March 21, 2017 11:38 AM
To: Norris, Raven (USACAN); Timothy Litzenburg; 'Stewart, Andrew'
Cc: Michael Miller; Jon Jacobs; Rich Mayer
Subject: RE: Deposition of Jess Rowland

Great. Thank you all. Talk to you at 2pm EST.

And I apologize again for the last minute conflict.

Mark Stilp | Attorney-Adviser | Office of General Counsel | U.S. Environmental Protection Agency | 1200 Pennsylvania Ave. NW | Washington, DC 20460 | mail code: 2377A | office: 202.564.4845 | cell: 202.839.1889

From: Norris, Raven (USACAN) [<mailto:Raven.Norris@usdoj.gov>]
Sent: Tuesday, March 21, 2017 11:16 AM
To: Timothy Litzenburg <TLitzenburg@MillerFirmLLC.com>; 'Stewart, Andrew' <astewart@velaw.com>; Stilp, Mark <Stilp.Mark@epa.gov>
Cc: Michael Miller <MMiller@millerfirmllc.com>; Jon Jacobs <jjacobs@jjacobsllc.com>; Rich Mayer <RMayer@millerfirmllc.com>
Subject: RE: Deposition of Jess Rowland

I can do 2pm as well.

From: Timothy Litzenburg [<mailto:TLitzenburg@MillerFirmLLC.com>]
Sent: Tuesday, March 21, 2017 8:08 AM
To: 'Stewart, Andrew' <astewart@velaw.com>; Stilp, Mark <Stilp.Mark@epa.gov>
Cc: Michael Miller <MMiller@millerfirmllc.com>; Jon Jacobs <jjacobs@jjacobsllc.com>; Norris, Raven (USACAN) <rnorris@usa.doj.gov>; Rich Mayer <RMayer@millerfirmllc.com>
Subject: RE: Deposition of Jess Rowland

2pm it is

From: Stewart, Andrew [<mailto:astewart@velaw.com>]
Sent: Tuesday, March 21, 2017 11:04 AM
To: Stilp, Mark

Cc: Timothy Litzenburg; Michael Miller; Jon Jacobs; Raven Norris; Rich Mayer
Subject: Re: Deposition of Jess Rowland

Mark,

I could be available at 2 pm today.

Best regards,
Andrew

Sent from my iPhone



On Mar 21, 2017, at 10:48, Stilp, Mark <Stilp.Mark@epa.gov> wrote:

Hi All-

I hate to do this, any chance we can move this to 12pm EST or 2pm EST?

I have an unexpected and urgent conflict at 1pm that I cannot reschedule.

If the meeting time cannot be moved, I am more than confident that Raven can represent the Agency, and if my 1pm ends early, I'll join this call late.

Thanks.

-Mark Stilp

Mark Stilp | Attorney-Adviser | Office of General Counsel | U.S. Environmental Protection Agency | 1200 Pennsylvania Ave. NW | Washington, DC 20460 | mail code: 2377A | office: 202.564.4845 | cell: 202.839.1889

From: Timothy Litzenburg [<mailto:TLitzenburg@MillerFirmLLC.com>]

Sent: Tuesday, March 21, 2017 9:32 AM

To: Michael Miller <MMiller@millerfirmllc.com>; Jon Jacobs <jjacobs@jjacobsllc.com>

Cc: Andrew <astewart@velaw.com>; Raven Norris <raven.norris@usdoj.gov>; Stilp,

Mark <Stilp.Mark@epa.gov>; Rich Mayer <RMayer@millerfirmllc.com>

Subject: RE: Deposition of Jess Rowland

All

Please join us for a call at 1pm eastern today to iron out these issues.

Dial-in Number:	(641) 715-3580
Access Code:	221-563

Timothy

From: Michael Miller
Sent: Monday, March 20, 2017 5:15 PM
To: Jon Jacobs
Cc: Timothy Litzenburg; Andrew; Raven Norris; Stilp, Mark
Subject: Re: Deposition of Jess Rowland

All

One pm EST Tuesday March 21st. Rich circulate a call in number.

Thanks.

Mike

Sent from my iPhone

On Mar 20, 2017, at 3:19 PM, Jon Jacobs <jjacobs@jjacobsllc.com> wrote:

Mike-

Good afternoon. Thank you for your call last week. Andrew Stewart and I are responding to your request to schedule a conference call the week of March 20th regarding the deposition of our client, Jess Rowland. We are available at the following times: Tuesday, Wednesday, or Thursday between 1pm-4pmET. We understand that Raven Norris and Mark Stilp are also available at those times.

With regard to rescheduling the deposition of Mr. Rowland, how do you propose proceeding? We don't believe we need to notify the court and instead can do so in a letter between the parties concerning the proposed date for the deposition as well as the production of documents requested in the subpoena. However, we are unclear as to whether we need to approach the Court to extend our response time to file a motion to quash from March 28th because the Court set the deadline for the United States.

We are still coming up to speed on the underlying facts relating to the subpoena and notice of deposition, and the respective roles of us and the Government's attorneys. Another factor concerning the date for

deposing Mr. Rowland is that we currently have one FOIA submitted to EPA that has yet to be responded to, and we anticipate filing several other FOIAs relevant to Mr. Rowland's employment at EPA. EPA is required to respond to a FOIA request within twenty working days, excluding Saturdays, Sundays, and legal holidays. The twenty-day period generally does not begin until the request is received by EPA and perfected, and EPA generally responds to FOIA requests in the order received. Further, the Agency may extend the response time for an additional ten working days and may in any event take longer. For this reason, we propose that Mr. Rowland's deposition be scheduled no earlier than mid-May 2017.

We would like to send you a letter copying the Government confirming the extensions of the deposition discussed above as soon as possible. Please let us know, today if possible, if you agree with our proposal. We look forward to talking with you later this week. Thanks.

With best regards,
Jon

Jon D. Jacobs
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From: raven.norris@usdoj.gov

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