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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

IN RE: ROUNDUP PRODUCTS
LIABILITY LITIGATION

MDL No. 2741
Case No. 3:16-md-02741-VC

This document relates to:
ALL ACTIONS

**MONSANTO'S WITNESS LIST FOR DAUBERT HEARING
AND OBJECTIONS TO PLAINTIFFS' WITNESS LIST AND PROPOSED SCHEDULE**

1
2 Pursuant to the Court's August 25, 2017 Minute Order (ECF No. 470), Plaintiffs and
3 Monsanto Company ("Monsanto") hereby provide the Court with their proposed witness list,
4 objections to defendants' witness list, objections to plaintiffs' witness list, and proposed
5 schedule. The parties reserve the right to amend, supplement, or revise this list depending upon
6 amendments to either party's witness list and/or the presentation of new or undisclosed opinions
7 by Plaintiffs' or Monsanto's experts. The parties also reserve the right to present via videotaped
8 deposition the testimony or excerpts thereof of any or all witnesses named on either party's
9 witness list. Finally, the parties reserve the right to present further challenges to the
10 qualifications, methodology, fit, and/or scope of the testimony of any witnesses or expert
11 testimony proffered by either party prior to, contemporaneously with, or following the *Daubert*
12 hearing.

13 **Plaintiffs' Witness List (in alphabetical order)**

14 **1. Dr. Charles W. Jameson**

15 Plaintiffs expect expert witness Dr. Jameson to testify as to the opinions contained
16 within his expert report, his opinions testified to at his deposition, and to his
17 interpretation of the opinions expressed by Monsanto's experts. As set forth below,
18 Plaintiffs believe that Plaintiffs should have up to 2.5 hours to conduct the direct
19 examination of Dr. Jameson and Monsanto should have up to 1.5 hours to conduct
20 cross-examination of Dr. Jameson.

21 **2. Dr. Chadi Nabhan**

22 Plaintiffs expect expert witness Dr. Nabhan to testify as to the opinions contained
23 within his expert report, his opinions testified to at his deposition, and to his
24 interpretation of the opinions expressed by Monsanto's experts. As set forth below,
25 Plaintiffs believe that Plaintiffs should have up to 2.5 hours to conduct the direct
26 examination of Dr. Nahban and Monsanto should have up to 1.5 hours to conduct
27 cross-examination of Dr. Nahban.
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1 **3. Dr. Alfred Neugut**

2 Plaintiffs expect expert witness Dr. Neugut to testify as to the opinions contained
3 within his expert report, his opinions testified to at his deposition, and to his
4 interpretation of the opinions expressed by Monsanto's experts. As set forth below,
5 Plaintiffs believe that Plaintiffs should have up to 2.5 hours to conduct the direct
6 examination of Dr. Neugut and Monsanto should have up to 1.5 hours to conduct
7 cross-examination of Dr. Neugut.

8 **4. Dr. Christopher Portier**

9 Plaintiffs expect expert witness Dr. Portier to testify as to the opinions contained
10 within his expert report, his opinions testified to at his deposition, and to his
11 interpretation of the opinions expressed by Monsanto's experts. As set forth below,
12 Plaintiffs believe that Plaintiffs should have up to 2.5 hours to conduct the direct
13 examination of Dr. Portier and Monsanto should have up to 1.5 hours to conduct
14 cross-examination of Dr. Portier.

15 **5. Dr. Beate Ritz**

16 Plaintiffs expect expert witness Dr. Ritz to testify as to the opinions contained within
17 her expert report, her opinions testified to at her deposition, and to her interpretation
18 of the opinions expressed by Monsanto's experts. As set forth below, Plaintiffs
19 believe that Plaintiffs should have up to 2.5 hours to conduct the direct examination
20 of Dr. Ritz and Monsanto should have up to 1.5 hours to conduct cross-examination
21 of Dr. Ritz.

22 **6. Dr. Dennis Weisenburger**

23 Plaintiffs expect expert witness Dr. Weisenburger to testify as to the opinions
24 contained within his expert report, his opinions testified to at his deposition, and to
25 his interpretation of the opinions expressed by Monsanto's experts. As set forth
26 below, Plaintiffs believe that Plaintiffs should have up to 2.5 hours to conduct the
27 direct examination of Dr. Weisenburger and Monsanto should have up to 1.5 hours to
28 conduct cross-examination of Dr. Weisenburger.

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Plaintiffs’ Non-Retained Experts

1. Dr. Aaron Blair

Plaintiffs expect to call Dr. Blair as a non-retained expert witness either by trial subpoena or by way of his deposition testimony on March 20, 2017. If by trial subpoena, and as set forth below, Plaintiffs believe that Plaintiffs should have up to 2.5 hours to conduct the direct examination of Dr. Blair and Monsanto should have up to 1.5 hours to conduct cross-examination of Dr. Blair.

2. Dr. Matthew Ross

Plaintiffs expect to call Dr. Ross as a non-retained expert witness either by trial subpoena or by way of his deposition testimony on May 3, 2017. If by trial subpoena, and as set forth below, Plaintiffs believe that Plaintiffs should have up to 2.5 hours to conduct the direct examination of Dr. Ross and Monsanto should have up to 1.5 hours to conduct cross-examination of Dr. Ross.

Plaintiffs’ Objections to Monsanto’s Witness List

Plaintiffs will be filing their *Daubert* motion on October 27, 2017 and will incorporate those arguments during *Daubert* week. Plaintiffs, however, do not object to Monsanto bringing any or all of their identified witnesses to *Daubert* week.

Monsanto’s Witness List

1. Dr. Chris Corcoran (Utah State University), Logan, Utah

Monsanto expects Dr. Corcoran to testify as to the opinions contained within his expert report, his opinions expressed at deposition, and to his interpretation of the opinions expressed by plaintiffs’ experts. The length of Dr. Corcoran’s testimony will be dependent upon the length and content of plaintiffs’ experts’ testimony, and therefore Monsanto is unable to provide an estimate as to the length of his testimony at this time.

2. Dr. William Fleming (Oregon Health and Science University), Portland, Oregon

Monsanto expects Dr. Fleming to testify as to the opinions contained within his

1 expert report, his opinions expressed at deposition, and to his interpretation of the
2 opinions expressed by plaintiffs' experts. The length of Dr. Fleming's testimony will
3 be dependent upon the length and content of plaintiffs' experts' testimony, and
4 therefore Monsanto is unable to provide an estimate as to the length of his testimony
5 at this time.

6 **3. Dr. Warren Foster (McMaster University), Hamilton, Ontario, Canada**

7 Monsanto expects Dr. Foster to testify as to the opinions contained within his expert
8 report, his opinions expressed at deposition, and to his interpretation of the opinions
9 expressed by plaintiffs' experts. The length of Dr. Foster's testimony will be
10 dependent upon the length and content of plaintiffs' experts' testimony, and therefore
11 Monsanto is unable to provide an estimate as to the length of his testimony at this
12 time.

13 **4. Dr. Jay Goodman (Michigan State University), East Lansing, Michigan**

14 Monsanto expects Dr. Goodman to testify as to the opinions contained within his
15 expert report, his opinions expressed at deposition, and to his interpretation of the
16 opinions expressed by plaintiffs' experts. The length of Dr. Goodman's testimony
17 will be dependent upon the length and content of plaintiffs' experts' testimony, and
18 therefore Monsanto is unable to provide an estimate as to the length of his testimony
19 at this time.

20 **5. Dr. Lorelei Mucci (Harvard University), Boston, Massachusetts**

21 Monsanto expects Dr. Mucci to testify as to the opinions contained within her expert
22 report, her opinions expressed at deposition, and to her interpretation of the opinions
23 expressed by plaintiffs' experts. The length of Dr. Mucci's testimony will be
24 dependent upon the length and content of plaintiffs' experts' testimony, and therefore
25 Monsanto is unable to provide an estimate as to the length of her testimony at this
26 time.

27 **6. Dr. Jennifer Rider (Boston University), Boston, Massachusetts**

28 Monsanto expects Dr. Rider to testify as to the opinions contained within her expert

1 report, her opinions expressed at deposition, and to her interpretation of the opinions
2 expressed by plaintiffs' experts. The length of Dr. Rider's testimony will be
3 dependent upon the length and content of plaintiffs' experts' testimony, and therefore
4 Monsanto is unable to provide an estimate as to the length of her testimony at this
5 time.

6 **7. Dr. Thomas Rosol (Ohio University), Athens, Ohio**

7 Monsanto expects Dr. Rosol to testify as to the opinions contained within his expert
8 report, his opinions expressed at deposition, and to his interpretation of the opinions
9 expressed by plaintiffs' experts. The length of Dr. Rosol's testimony will be
10 dependent upon the length and content of plaintiffs' experts' testimony, and therefore
11 Monsanto is unable to provide an estimate as to the length of his testimony at this
12 time.

13 **Non-Retained Experts Offered via Deposition Testimony Only**

14 **1. Dr. Aaron Blair (Retired), North Potomac, Maryland**

15 Monsanto expects to designate portions of Dr. Blair's testimony from his deposition
16 on March 20, 2017 to the extent that testimony is admissible pursuant to the
17 applicable law, the Federal Rules of Evidence, and the Federal Rules of Civil
18 Procedure. *See* Monsanto's *Daubert* Motion (ECF No. 545). The length of Dr.
19 Blair's testimony will be dependent upon the length and content of plaintiffs' experts'
20 testimony, but Dr. Blair's testimony will be limited to the testimony propounded at
21 his deposition.

22 **2. Dr. Matthew Ross (Mississippi State University), Starkville, Mississippi**

23 Monsanto expects to designate portions of Dr. Ross's testimony from his deposition
24 on May 3, 2017 to the extent that testimony is admissible pursuant to the applicable
25 law, the Federal Rules of Evidence, and the Federal Rules of Civil Procedure. *See*
26 Monsanto's *Daubert* Motion (ECF No. 545). The length of Dr. Ross's testimony
27 will be dependent upon the length and content of plaintiffs' experts' testimony, but
28 Dr. Ross's testimony will be limited to the testimony propounded at his deposition.

1 **Objections to Plaintiffs' Witness List**

2 **3. Dr. Aaron Blair (Retired), North Potomac, Maryland**

3 Monsanto objects to the admission of any general causation opinion testimony of
4 Aaron Blair for the reasons previously outlined in Monsanto's *Daubert* Motion (ECF
5 No. 545). Monsanto further objects to the admission of any live testimony from Dr.
6 Blair or any testimony beyond that presented at his March 20, 2017 deposition. Dr.
7 Blair has not proffered an expert report in this matter and Dr. Blair's March 20, 2017
8 deposition was expressly limited to fact testimony.

9 **4. Dr. Charles W. Jameson (Consultant), Fort Myers, Florida**

10 Monsanto objects to the admission of the testimony of Charles Jameson for the
11 reasons previously outlined in Monsanto's *Daubert* Motion (ECF No. 545).

12 **5. Dr. Chadi Nabhan (Consultant), Chicago, Illinois**

13 Monsanto objects to the admission of the testimony of Chadi Nabhan for the reasons
14 previously outlined in Monsanto's *Daubert* Motion (ECF No. 545).

15 **6. Dr. Alfred Neugut (Columbia University), New York, New York**

16 Monsanto objects to the admission of the testimony of Alfred Neugut for the reasons
17 previously outlined in Monsanto's *Daubert* Motion (ECF No. 545).

18 **7. Dr. Christopher Portier (Consultant), Thun, Switzerland**

19 Monsanto objects to the admission of the testimony of Christopher Portier for the
20 reasons previously outlined in Monsanto's *Daubert* Motion (ECF No. 545).

21 **8. Dr. Beate Ritz (UCLA), Los Angeles, California**

22 Monsanto objects to the admission of the testimony of Beate Ritz for the reasons
23 previously outlined in Monsanto's *Daubert* Motion (ECF No. 545).

24 **9. Dr. Matthew Ross (Mississippi State University), Starkville, Mississippi**

25 Monsanto objects to the admission of any general causation opinion testimony of
26 Matthew Ross for the reasons previously outlined in Monsanto's *Daubert* Motion
27 (ECF No. 545). Monsanto further objects to the admission of any live testimony from
28 Dr. Ross or any testimony beyond that presented at his May 3, 2017 deposition. Dr.

1 Ross has not proffered an expert report in this matter and Dr. Ross's May 3, 2017
2 deposition was expressly limited to fact testimony.

3 **10. Dr. Dennis Weisenburger (City of Hope), Duarte, California**

4 Monsanto objects to the admission of the testimony of Dennis Weisenburger for the
5 reasons previously outlined in Monsanto's *Daubert* Motion (ECF No. 545).

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7 **Proposed Schedule for Science Week**

8 **Plaintiffs' Position:** Plaintiffs proffered six general causation experts and two non-
9 retained experts and intends to call them all to the *Daubert* hearing the week of December
10 11, 2017. Monsanto identified nine witnesses for *Daubert* week. Because both sides
11 named the same two non-retained witnesses, the parties are collectively proffering fifteen
12 witnesses during *Daubert* week. Although perhaps not ideal, Plaintiffs believe that one
13 week is insufficient time to conduct direct examination, cross examination, and Court
14 questioning on fifteen expert witnesses, plus summary judgment arguments by counsel.
15 Plaintiffs propose that direct examination of each witness shall be limited to 2.5 hours
16 and cross-examination of each witness shall be limited to 1.5 hours. Because the party
17 proffering the witness carries the burden, allowing more time on direct examination is
18 fair and makes sense. Also, because it will remain unknown until after Plaintiffs proffer
19 their witnesses which experts Monsanto will actually present at the *Daubert* hearing, it
20 makes sense to limit the time "by expert" rather than "by side." Otherwise, it would be
21 impossible for Plaintiffs to know how much time to reserve for cross-examination of
22 Monsanto's experts when they do not know which experts will actually produce at the
23 hearing.

24 **Monsanto's Position:** Monsanto proposes that each party be given equal time to conduct
25 direct and cross-examination of witnesses (e.g. if 30 hours of court time is scheduled for
26 witness testimony, each party may use 15 hours as it sees fit in conducting direct and/or
27 cross-examination of witnesses). Monsanto believes that the Court has reserved
28 sufficient time during the week of December 11, 2017 for the parties to provide evidence

1 on the *Daubert* issue before the Court and does not believe the hearing should be
2 extended into the week of December 18, 2017, which would create as well significant
3 scheduling conflicts with the upcoming holidays.
4

5 DATED: October 13, 2017

Respectfully submitted,

6 /s/
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