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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

BADER FARMS, INC. ,

Plaintiffs,

vs.

Cause No. 1:16CV299 SNLJ

MONSANTO CO. , AND BASF CORPORATION,

Defendants.

=====

TRIAL DAY 1
VOLUME 1A PAGES 1 - 122

BEFORE THE HONORABLE STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE

JANUARY 27, 2020

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Reported by:

Alison M. Garagnani, CCR #475, CSR, RMR, CRR
Official Court Reporter
United States District Court
555 Independence, Room 3100
Cape Girardeau, MO 63703
(573) 331-8832

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I N D E X

Page

VOLUME 1A

January 27, 2020

Trial :

Venire panel sworn and instructions read 15

Voir Dire Examination on Behalf of Plaintiffs
By Mr. Randles 57

Voir Dire Examination on Behalf of Defendant
Monsanto by Mr. Miller 86

Voir Dire Examination on Behalf of Defendant
BASF by Mr. Mandler 103

Jury Sworn 119

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APPEARANCES:

For Plaintiffs Bader Farms:
Billy R. Randles
Beverly Turina Randles
Angela Marie Splittgerber
RANGLES AND SPLITTGERBER, LLP
5823 N. Cypress Ave.
Kansas City, MO 64119

Tracey F. George
Lawrence Benjamin Mook
DAVIS AND GEORGE LLC
1600 Genessee St.
Suite 328
Kansas City, MO 64102

For Defendant Monsanto Company:

Jan Miller
Sharon Rosenberg
David Dukes
THOMPSON COBURN, LLP
One US Bank Plaza
505 N. 7th Street
Suite 2700
St. Louis, MO 63101

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APPEARANCES CONTINUED:

For Defendant BASF Corporation:

John P. Mandler
Anthony Finnell
Shane Anderson
Tari fa Laddon
FAEGRE AND BAKER LLP
2200 Wells Fargo Center
90 S. Seventh St.
Minneapolis, MN 55402

Troy A. Bozarth
HEPLER BROOM
130 N. Main Street
P.O. Box 510
Edwardsville, IL 62025-0510

T R I A L

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3 The trial began on Monday, the 27th day of January, 2020,
4 before the Honorable Stephen N. Limbaugh, United States
5 District Judge, of the Eastern District of Missouri,
6 Southeastern Division, before a jury and two alternate
7 jurors, who were impaneled, selected and sworn.

8 (Proceedings resumed in open court outside the
9 presence of the jury.)

10 THE COURT: Good morning. This case is Bader
11 Farms, Inc., versus Monsanto Company and BASF Corporation.
12 The Case Number is 16CV299.

13 Counsel, announce your appearances. And I think
14 for this purpose I take it, Mr. Randles, you'll be the one
15 who speaks on behalf of all the Plaintiffs at least
16 initially?

17 MR. RANDES: Yes, Your Honor.

18 THE COURT: For things like pretrial?

19 MR. RANDES: Yes, Your Honor.

20 THE COURT: All right. And, Mr. Miller, then for
21 Monsanto?

22 MR. MILLER: Yes, Your Honor.

23 THE COURT: And, Mr. Mandler?

24 MR. MANDLER: Yes, Your Honor.

25 THE COURT: So this is the case set today for jury

1 trial, of course, but before the jury trial we will have our
2 sixth pretrial conference. And we made a lot of progress
3 over the weekend.

4 Why don't I first deal with the case summary for
5 the jury. And I received the most recent additions, and it
6 looks fine to me. Is there any concern about the case
7 summary that will be read to the jury then?

8 MR. RANGLES: Your Honor, we -- we would prefer to
9 leave the language genetically modified in there since that's
10 what it is, but I must say I don't feel strongly about it.

11 THE COURT: Yeah. Okay. I'll delete it since
12 that's the most -- that's the latest edits, and then you can
13 mention that in wherever.

14 So I suppose the next thing we should do is just go
15 through all of the objections that were made at our informal
16 conferences that were off the record over the weekend. And
17 they pertain mainly to do you want to deal first with the
18 exhibits and matters that the Plaintiff intends to introduce
19 during opening statements?

20 Now, I have Monsanto's.

21 MR. MILLER: Yes, Your Honor. Thank you. Good
22 morning. We've provided both to Plaintiffs' counsel and
23 BASF's counsel and then to the Court Monsanto's proposed
24 order regarding trial exhibits proposed for use by Plaintiffs
25 during Plaintiffs' opening statement.

1 THE COURT: Yes.

2 MR. MILLER: And, as Your Honor sees, it is set up
3 with columns on the side number, the exhibit number, our
4 objection. And then for the Court's convenience we've put in
5 the motion in limine and the Court's rulings.

6 And, as we say, at the end of this, Your Honor,
7 we've set it up as a proposed order for Your Honor to sign.

8 As we discussed at the informal conference
9 yesterday, the parties agreed and the Court preferred that we
10 make our objections now and in this form so that we're not
11 popping up like jumping beans during Plaintiffs' opening
12 statement. And so --

13 THE COURT: This is very helpful.

14 MR. MILLER: Thank you, Your Honor, I'm glad.

15 And so, for the record, we're submitting this to
16 the Court and stating for the record that we do object. We
17 continue to object on the grounds that are listed in this
18 document. And we would ask that the Court order that the
19 Plaintiff not use these documents or refer to them during
20 opening statement.

21 THE COURT: Okay. Counsel for the Plaintiff,
22 you've reviewed this document. Does everything seem in
23 order?

24 MR. RANGLES: Your Honor, I reviewed this document
25 in passing. I'm comfortable with the Court's rulings, and

1 I'm comfortable that the Defendants have made their
2 objections sufficiently.

3 THE COURT: My main concern is I want to make sure
4 that these -- the purpose is I won't have to go through each
5 of these --

6 MR. RANGLES: Yes.

7 THE COURT: -- specific objections. I can just
8 sign off on the record as per our preliminary decisions
9 yesterday.

10 MR. MILLER: Yes, Your Honor, that is the purpose.
11 And the purpose also is to make it clear that the parties
12 agree that we're preserving all of these, and I'm not waiving
13 anything by not popping up during opening statement.

14 THE COURT: Sure. It helps a lot.

15 MR. RANGLES: I so agree.

16 THE COURT: Yeah. I will just sign the order as
17 you have it prepared documenting all of the objections to
18 each of the exhibits that the Plaintiff intends to use in
19 opening statement. And since yesterday afternoon, my
20 position on those objections hasn't really changed, so I
21 think I can just sign the order.

22 MR. MILLER: I'm stunned, Your Honor.

23 THE COURT: I appreciate the trouble that you went
24 to to expedite that part of the --

25 MR. MILLER: Our pleasure.

1 THE COURT: -- pretrial conference.

2 I've also received bench memos from -- first from
3 Monsanto about admission of evidence for non-hearsay purpose
4 of notice. Also BASF Corporation's Bench Brief of the
5 Applicable Standards for Admission of Documents Under the
6 Business Record Exception.

7 I'm pretty up to date on that anyway, but I will
8 agree to that.

9 MR. MANDLER: Your Honor, John Mandler for BASF.
10 We all submitted similar objections, and I'm happy to --

11 THE COURT: Yes. I agree with that too. We'll
12 take that up now. Is that the same kind of --

13 MR. MANDLER: It's the exact same format. We have
14 noted the exhibits that Plaintiffs intend to use, the
15 objections that BASF raised, your rulings that you gave us in
16 a preliminary fashion yesterday are set forth. We've given a
17 copy to the Plaintiffs.

18 And I understand the same thing applies. Rather
19 than object during openings, we're submitting it to the Court
20 in this form maintaining all our objections and not waiving
21 anything and have a standing objection on the use of these
22 exhibits during opening.

23 So we submit this to the Court in the same fashion.

24 THE COURT: Again, it's very helpful. And I
25 appreciate the effort that you made. And so I'll enter the

1 order on both of these proposed orders.

2 MR. MANDLER: The only -- the only question I have
3 is a mechanical one, which is do we need to actually file it
4 with the Court. Would the Court prefer that we file it?

5 THE COURT: No. Yeah. I think, yeah, we'll
6 certainly file it. I'll file it as soon as I sign it.

7 MR. MANDLER: Okay. Fine. But I mean should we
8 file a proposed order or is it --

9 THE COURT: No.

10 MR. MANDLER: And would you prefer if we sent it to
11 you in a word document? Do you have it?

12 THE COURT: This is just fine.

13 MR. MANDLER: Okay. Thank you, Your Honor.

14 THE COURT: I have it, and I will sign it, file it,
15 and I'll have copies.

16 MR. MANDLER: Okay. Thank you.

17 THE COURT: Now, I told counsel for both sides that
18 we should have the jury information sheets before now, but,
19 frankly, I forgot that we really don't put those together
20 finally until all the jurors are checked in, so we know
21 everybody who's here. And so as soon as that happens we'll
22 get half a dozen copies for each side, all three sides.

23 And with that are there any of the preliminary
24 matters for the Plaintiff?

25 MR. RANGLES: No, Your Honor.

1 THE COURT: Is the Plaintiff ready for trial then?

2 MR. RANGLES: The Plaintiff is eager for trial,
3 Your Honor.

4 THE COURT: Okay. For Monsanto?

5 MR. MILLER: Nothing else, Your Honor. We're ready
6 for trial.

7 THE COURT: BASF?

8 MR. MANDLER: We're ready for trial, Your Honor.

9 THE COURT: We're already ahead of schedule. It
10 helped a lot, as I mentioned yesterday, to get so many of
11 these preliminary matters out of the way, so I think we can
12 expedite the --

13 MR. RANGLES: Your Honor, may I express on behalf
14 of, I think, all the parties our appreciation for the Court's
15 willingness to accommodate us this weekend, especially since
16 we know that it was the Court's birthday.

17 THE COURT: That's fine.

18 MR. RANGLES: We thank you for that.

19 THE COURT: That's fine. Thanks.

20 We'll just go off the record for a minute.

21 (A discussion was held off the record.)

22 THE COURT: So we have the jury list now, so we'll
23 distribute all of those.

24 I think someone asked for cards to be given to
25 the -- numbered cards be given to the jurors to hold up. We

1 have jury badges with numbers on them, so we'll just use
2 those.

3 I'm a little concerned about room during the jury
4 selection. At least once the panel is not selected it clears
5 out, and there won't be any problem, but we have 42 or 44.
6 Can we get everybody in the back right?

7 THE CLERK: Yes.

8 THE COURT: That should be fine then.

9 We'll be in recess until we bring the jury up for
10 jury selection.

11 (Proceedings stood in temporary recess.)

12 (Proceedings resumed in open court outside the
13 presence of the jury.)

14 THE COURT: Mr. Mandler, you had one thing you
15 forgot?

16 MR. MANDLER: Yes, Your Honor. One other thing
17 that we discussed yesterday we wanted to make sure was on the
18 record that we didn't put it on the record when we talked
19 about it.

20 There were a couple of documents that were
21 designated confidential or highly confidential that
22 Plaintiffs are intending to show the jury. We discussed and
23 agreed that both designations of confidentiality would remain
24 in place, and no one would like to waive their
25 confidentiality, but we would -- pursuant to the Court's

1 order we would take it -- take those up one at a time as
2 exhibits come up during the course of the trial.

3 THE COURT: Yes. Yeah. That's consistent with
4 the Court's tentative ruling.

5 MR. MANDLER: I appreciate that, Your Honor. Thank
6 you, Your Honor.

7 THE COURT: Anything else? Okay.

8 MR. MANDLER: Thank you.

9 (Proceedings stood in temporary recess.)

10 (Proceedings resumed in open court.)

11 THE COURT: Good morning, ladies and gentlemen.
12 My name is Stephen Limbaugh, Junior. I'm the resident United
13 States District Judge here in Cape Girardeau, and I'll
14 preside over the trial.

15 I welcome you to your United States courthouse.
16 The courthouse here has been online for nearly 12 years, and
17 it is still one of the most high tech, state of the art
18 courthouses in the world. We're very fortunate to have this
19 facility here in Cape Girardeau, because without it all of
20 the people who are the parties, the lawyers, the litigants,
21 the witnesses, and especially you-all as jurors and
22 prospective jurors would have to go to St. Louis for your
23 jury service.

24 I'll explain a little bit about that. In Missouri
25 there are two districts of the United States District Court.

1 One is the Eastern District headquartered in St. Louis. The
2 other is the Western District headquartered in Kansas City.

3 And then within each district there are divisions.
4 We here in Southeast Missouri are part of the Southeastern
5 Division of the Eastern District of Missouri. And so our
6 division encompasses the Counties of Ste. Genevieve and Iron
7 on the northern border all the way down to the Arkansas line
8 and then west into the Ozarks with Shannon and Carter County
9 and Reynolds County. And so there are 18 counties then in
10 the Southeastern Division of the Eastern District of
11 Missouri. And that's why you have been selected for service
12 here.

13 We are about to begin the trial of a civil case.
14 This is a lawsuit brought by the Plaintiff Bader Farms, Inc.,
15 against two Defendants, Monsanto Company and BASF
16 Corporation. I'll give you a case summary in a few minutes,
17 but for now we'll begin with jury selection as you know.

18 And during this part of the trial, I'll ask you
19 some questions, and the attorneys will ask you some questions
20 for the purpose of determining whether any of you has any
21 knowledge of the case or the people involved in it and
22 whether you have any feelings about the issues involved in
23 the case that might make it difficult for you to give both
24 sides or all three sides a fair trial.

25 Our questions will additionally be directed to you

1 as a group, but we'll also ask questions of you individually.
2 Please understand we're not trying to embarrass you or invade
3 your privacy by asking these. They are necessary, though,
4 to determine whether or not you would listen to the evidence
5 impartially, follow the law and be fair to both sides.

6 If you feel uncomfortable answering a question in
7 front of the group, let me know and at the conclusion of the
8 questioning you can come here to the side of the bench and
9 give your answer here in private.

10 Please understand that you are not permitted to
11 withhold information that is asked of you. And so the first
12 order of business is for you to take an oath promising to
13 give true and complete answers to our questions. You must
14 live up to that oath, so please rise now and be sworn in by
15 the Court Clerk.

16 (Venire panel sworn and instructions read.)

17 THE COURT: We have a court reporter in front of
18 the me who is recording everything that is said during this
19 proceeding, during the entire trial actually. So to make
20 sure we have an accurate record I will ask you when you are
21 responding to a question to give your name and your badge
22 number, if you would.

23 And for those of you who are in the gallery back
24 there so that we can see you-all I ask that you stand when
25 you respond to a question as well.

1 Also, please speak loudly and clearly so that
2 everyone in the courtroom can hear you. Again, that goes
3 all the more for the people who are in the very back in the
4 gallery.

5 Now you'll not be allowed to leave the courtroom
6 until we take a recess. But if you need to leave sooner
7 than that, let me know, and I'll try to accommodate you.

8 So my first question is whether any of you has any
9 vision or hearing problem or some other condition that might
10 affect your service. Anyone with a problem like that?

11 Yes, sir. Juror Number 7.

12 VENIREPERSON 7: The only reservation I have is I
13 take water pill for high blood pressure, and it works very
14 well, if you know what I mean.

15 THE COURT: Okay. We'll take --

16 VENIREPERSON 7: Okay.

17 THE COURT: -- recesses from time to time. And,
18 again, I can accommodate you if necessary, but do you think
19 you'll be okay?

20 VENIREPERSON 7: Hopefully, yes.

21 THE COURT: It's not like we go for three hours
22 straight. We'll always have recesses.

23 VENIREPERSON 7: Thank you.

24 THE COURT: I see no other hands.

25 Now, this is a big problem, and one of the reasons

1 we called in so many prospective jurors is that this case is
2 expected to last at least two weeks. And at this point I
3 think it's going to last three weeks.

4 So with that in mind -- well, let me preface this,
5 too, because it lasts so long there are funds available for
6 those of who you live more than 90 miles away. I think it
7 is a per diem of maybe \$150 per day, something in that
8 neighborhood, that would allow you to stay here in Cape
9 Girardeau in a hotel. And, of course, all of you get your
10 mileage driving to and from your home to the courthouse, but
11 because the case does go on for so long you will be able to
12 take that per diem rate of \$150 if you decide to stay here.
13 I know a lot of you live, you know, an hour and a half or
14 maybe two hours away, so the Court is trying to accommodate
15 you in that way.

16 So now that you know that we may go for three
17 weeks, do any of you have any serious and overriding personal
18 situations or commitments at home or at work or otherwise
19 that would prevent you from giving your undivided attention
20 to the proceedings?

21 Okay. Let's start over here with Juror Number 6.

22 VENI REPERSON 6: John Haskell, Juror Number 6.
23 I'm in a financial obligation right now with me and my wife
24 both working full-time jobs. We work separate hours from
25 each other, and someone needs to be there to watch the

1 children.

2 THE COURT: I'll make a note of that. I don't
3 know that we can accommodate you, but we'll try.

4 Juror Number 7.

5 VENIREPERSON 7: . My name is Tommy Brown. I'm a
6 pastor of a Baptist church, and I have --

7 THE COURT: We won't meet on Sundays.

8 VENIREPERSON 7: Okay. I have a --

9 THE COURT: But the Baptists meet on Wednesdays
10 too; right?

11 VENIREPERSON 7: I have to go to hospital, and
12 things like that, but other than that we -- I don't mind to
13 serve, but I just want to make that note.

14 THE COURT: Okay. Thank you.

15 Anyone in the gallery?

16 Yes, sir.

17 VENIREPERSON 32: Darin McCall, Juror Number 32.

18 I'm a general manager, a branch operations manager at the
19 four locations for a company, and I have travel obligations.
20 And that's about it.

21 THE COURT: Is there no way that arrangements can
22 be made to for others to help with the situation during the
23 three weeks?

24 VENIREPERSON 32: Possibly, but there's also
25 management meetings in Columbus, Indiana that I must attend.

1 THE COURT: Yes, sir.

2 VENIREPERSON 36: Number 36 Derek Cissell. I'm
3 self-employed. And missing work is hard. And I'm a one-man
4 band with what I do. If I am not there to run my company I
5 could lose it.

6 THE COURT: Anyone else?

7 In the very back.

8 VENIREPERSON 41: Number 41, Marcia Le Grand. I
9 have a question. Does the Court pay for our hotel room ahead
10 of time, or do I have to come up with the money ahead of time
11 myself and then get paid back?

12 THE COURT: Ms. Schaefer.

13 THE CLERK: Reimbursement.

14 THE COURT: It's all reimbursement.

15 VENIREPERSON 41: Because if that's the case I
16 can't afford it.

17 So I'd have to have the money up front?

18 THE COURT: Yeah.

19 VENIREPERSON 41: To stay in a hotel?

20 THE COURT: Right.

21 VENIREPERSON 41: And I live like two hours and
22 15 minutes away, 12 miles from Arkansas.

23 THE COURT: Okay. I'll make a note of that then.
24 Thank you.

25 What number? I'm sorry.

1 VENIREPERSON 41: I'm number 41.

2 THE COURT: Okay. Thank you.

3 Yes, sir.

4 VENIREPERSON 10: My name is --

5 THE COURT: Yes, ma'am.

6 VENIREPERSON 10: Mae Taylor. I'm taking medicine
7 every day. I'm taking medicine every day. And then
8 sometimes it's like every four hours or later, and I have
9 osteoporosis. Sometimes my pain gets real bad.

10 THE COURT: Like I mentioned to the others, we will
11 take recess from time to time, so it's not like you're going
12 for three hours at once. And so you can take medications
13 and walk around, and so forth. Do you think you'll be okay
14 with that then?

15 VENIREPERSON 10: I don't know, because sometimes I
16 have to elevate my ankle, and sometimes it just needs to be
17 elevated, so it swells a lot.

18 THE COURT: Okay. I'll make a note of that then.
19 Thank you.

20 Anyone else?

21 I'll read to you a summary of the case.

22 Ladies and gentlemen, the Plaintiff in this case is
23 Bader Farms, Inc. Bader Farms is a corporation located in
24 Campbell, Missouri, which is in Dunklin County. Bader
25 Farms' primary business is growing peaches.

1 Bill Bader and his wife, Denise, Bader own Bader
2 Farms. Mr. Bader directs the farming operations at Bader
3 Farms. The peaches grown by Bader Farms are sold direct to
4 the public as well as to numerous grocery stores and other
5 retail outlets.

6 The Defendants in this case are Monsanto Company
7 and BASF Corporation. Monsanto is headquartered in
8 St. Louis, Missouri. Monsanto is an agriculture company
9 that develops seeds, herbicides and other agricultural
10 products to sell to farmers, retailers and wholesale
11 distributors.

12 BASF is an agrochemical company headquartered in
13 Florham Park, New Jersey. BASF Corporation's Agricultural
14 Products Group is based in Raleigh, North Carolina. BASF
15 develops its herbicides and other agricultural products to
16 sell to retailers and wholesale distributors.

17 In 2015 Monsanto began selling cotton seed that is
18 tolerant to dicamba-based herbicides and other herbicides.
19 In 2016 Monsanto also began selling soybean seed that is
20 tolerant to dicamba-based herbicides and other herbicides.
21 These seeds are known as Xtend seeds.

22 In 2017 both Monsanto and BASF began selling new
23 dicamba-based herbicides specifically developed and designed
24 for use with Monsanto's Xtend seeds and for other purposes.
25 These are herbicides where Monsanto's XtendiMax and BASF's

1 Engeni a.

2 Plaintiffs allege this was all part of a joint
3 venture between Monsanto and BASF to develop a
4 dicamba-tolerant crop system. Plaintiffs contend that
5 beginning in 2015 through the present Bader Farms peach
6 orchards have been devastated by dicamba-based herbicides
7 sprayed over the top of Monsanto's Xtend seed.

8 Plaintiffs claim that the dicamba herbicides were
9 moved off target from the Xtend crops onto Plaintiffs' peach
10 orchards killing or damaging thousands of Plaintiffs' peach
11 trees.

12 Plaintiffs allege that the crop system is
13 defective; Defendants were negligent in developing and
14 marketing their products; Defendants failed to adequately
15 warn about the dangers of their products; Defendants failed
16 to adequately train their employees to prevent the unsafe use
17 of their products; and that Defendants conspired to
18 intentionally create an ecological disaster; and finally
19 Defendants' conduct is such that they should be subject to
20 punitive damages.

21 Monsanto denies all of the Plaintiffs' allegations
22 and claims. Monsanto believes its products, Xtend cotton
23 and Xtend soybean seeds and XtendiMax or VaporGrip, are
24 properly designed for their intended use and that purchasers
25 and third parties were adequately warned on the proper use of

1 its products.

2 Monsanto believes that it adequately trained its
3 employees. Monsanto denies that it engaged in any
4 conspiracy or joint venture with BASF.

5 Monsanto denies Plaintiffs have been damaged by the
6 application of dicamba herbicides applied over the top of
7 Xtend crops and denies that XtendiMax is responsible for any
8 of Plaintiffs' alleged damages and asserts that Plaintiffs
9 have failed to offer any evidence that they were damaged by
10 XtendiMax.

11 BASF denies all the Plaintiffs' allegations and
12 claims. BASF believe its product Engenia is properly
13 designed for its intended use and that purchasers and third
14 parties were adequately warned on the product's use of its --
15 or proper use of its products.

16 BASF believes it adequately trained its employees.
17 BASF also denies that it engaged in any conspiracy or joint
18 venture with Monsanto.

19 BASF denies that Engenia is responsible for any of
20 Plaintiffs' alleged damages and asserts that Plaintiffs have
21 failed to offer any evidence that they were damaged by
22 Engenia.

23 Defendants assert that any loss suffered by
24 Plaintiffs was caused by the combination of other events
25 including soil disease, hail, frost, application of other

1 herbicides unrelated to the products at issue in this case,
2 tree disease, insects and Plaintiffs' own farming practices.

3 Now that you have a summary of the case, has any
4 member of the panel heard or read anything about this case?

5 Juror Number 11.

6 VENIREPERSON 11: Terence Dilbeck, Number 11. I
7 was reading online this weekend, and there was an article in
8 the Post Dispatch that I noticed on the website. And I just
9 happened to click on it and read it, and it said it was going
10 to start -- the case -- and I was looking at the case, and it
11 said it was going to start Monday, and I thought, well,
12 that's the case I'm going to probably.

13 And then also on Channel 12 News I've seen a story
14 here and there about overspray and crop damage.

15 THE COURT: All right. Now, I read that same
16 post, the Post Dispatch article, and basically it was a
17 summary of what I just read to you, don't you think?

18 VENIREPERSON 11: Yes. It probably had another
19 sentence or two in it.

20 THE COURT: Okay. Well, let's just leave it at
21 that. My main question, though, is whether you can set all
22 that information aside, and I'll give you instructions if
23 you're selected as a juror that you should not read any
24 newspaper articles, that you should not listen to the radio
25 or television, news, about anything about this case.

1 And so I guess my question now is can you set all
2 that aside and decide this case solely on the evidence that
3 is presented in this case in court during trial?

4 VENIREPERSON 11: That may be difficult.

5 THE COURT: Okay. I appreciate you being candid.
6 That's why we have to ask these questions then.

7 Anyone else?

8 Okay. Let's start -- sir, yes.

9 VENIREPERSON 23: Jerry Wilkes, Number 23. I read
10 the article in the local paper that came out about this, this
11 problem.

12 THE COURT: So was that the -- you're from
13 Doni phan; right?

14 VENIREPERSON 23: I am.

15 THE COURT: Was that the local paper in Doni phan?

16 VENIREPERSON 23: At that time I lived in Qulin,
17 which is close to Campbell.

18 THE COURT: Okay. Yeah. So do you -- that article
19 came out some time ago or what?

20 VENIREPERSON 23: Yeah. It's been, I think, a year
21 or two ago.

22 THE COURT: So do you remember any of the details
23 from it or just a little about or --

24 VENIREPERSON 23: Just a little.

25 THE COURT: Okay. I'll ask you the same kind of

1 question. Do you think you can set aside your knowledge of
2 the case from reading that article and be absolutely fair to
3 both sides and decide the case solely on the testimony and
4 evidence that's presented during the trial?

5 VENIREPERSON 23: I suppose.

6 THE COURT: Do you think you'd have some concern
7 about it?

8 VENIREPERSON 23: I really don't know.

9 THE COURT: Okay. I'll make a note. Thank you.
10 Yes, ma'am. Or who else was back there? Yes.

11 VENIREPERSON 31: Eva Davis, Number 31.

12 I hadn't heard about the case. I just heard that
13 they were having trouble with growing their peaches last year
14 when a family member went to get some for us. So I just
15 heard they were having trouble getting their peaches to grow
16 and were having issues with that. I didn't hear about the
17 case, but I did hear about that.

18 THE COURT: Okay. I'm going to ask follow-up
19 questions about that later.

20 VENIREPERSON 31: Okay.

21 THE COURT: But just based on that concern, do you
22 think you can set that aside and be absolutely fair to all
23 the parties here?

24 VENIREPERSON 31: Sure.

25 THE COURT: You're certain about that?

1 VENIREPERSON 31: Yes.

2 THE COURT: Okay. Thank you.

3 Yes, ma'am, in the back.

4 VENIREPERSON 42: I am familiar with the case.

5 I've read articles about it. My husband farms. And he's
6 attended various meetings about dicamba.

7 Our crops have what we thought had been damaged at
8 one point by dicamba, and I'm afraid I might have some trees
9 and seeds.

10 THE COURT: Okay. All right. Thank you.

11 Anyone else?

12 Yes.

13 VENIREPERSON 16: Is it a peach farm here?

14 THE COURT: No. It's down in Dunklin County.

15 VENIREPERSON 15: Oh, never mind. I don't know.

16 THE COURT: You don't know anything about that
17 then?

18 VENIREPERSON 15: No.

19 THE COURT: Anybody else?

20 Yes.

21 VENIREPERSON 34: Tracy Broglin, No. 34. My
22 husband farms also, so I know a little bit about that. Like
23 I live in Holcomb, so it's very close to Campbell.

24 THE COURT: Actually, that is kind of the next case
25 I was going to ask -- the next question I was going to ask,

1 if any of you are farmers and know anything about dicamba.
2 And really without saying what it is, you know, just let me
3 know that much, and that's kind of your response.

4 VENIREPERSON 34: That's all I really know about
5 it. Just I don't know the people that -- but I've heard of
6 them, and we have bought peaches from them, but as far as
7 knowing them, no.

8 THE COURT: Okay. Anyone else then read about the
9 case?

10 Yes.

11 VENIREPERSON 25: I'm number 25, Mandy Richardson,
12 and I'm from Gideon. And my husband works for a co-op and
13 also he's a farmer as well, and I do know a little bit about
14 dicamba.

15 THE COURT: Okay. Chances are most of the farmers
16 are not going to serve, or the people related to farmers are
17 not going to serve on the case, because of whatever you might
18 know about the case or just about farming in general.

19 So anyone else then?

20 Yes, ma'am.

21 VENIREPERSON 28: Iris Preusser, Number 28. We
22 live out in the country, and we have issues with farmers that
23 are using the dicamba.

24 THE COURT: Okay. I'll just leave it at that then.

25 And anyone else? So any other people who actually

1 farm or you have close family members who are farmers or who
2 might somehow even indirectly know anything about this case
3 or be concerned about it, because you have -- or are in the
4 farming business.

5 Juror Number 14.

6 VENIREPERSON 14: Yes. Rodney Phegley. My family
7 farms.

8 THE COURT: Uh-huh. But you haven't heard anything
9 about this case?

10 VENIREPERSON 14: Just a little about the news.

11 THE COURT: But you don't remember anything about
12 that?

13 VENIREPERSON 14: No.

14 THE COURT: Are you sure you can be absolutely fair
15 to both sides?

16 VENIREPERSON 14: Maybe.

17 THE COURT: Well, that's why we're asking these
18 questions.

19 VENIREPERSON 14: Probably not.

20 THE COURT: Okay. All right. Anyone else?

21 Yes, ma'am.

22 VENIREPERSON 29: Katie Urhahn, Number 29. I'm a
23 registered dietitian. And I'm a very strong proponent of
24 small family farms. And I'm very much against --

25 THE REPORTER: I'm sorry. You're going to have to

1 speak up, ma'am. I'm sorry.

2 VENIREPERSON 29: I'm Katie Urhahn, Number 29. I'm
3 a registered dietitian.

4 THE COURT: Okay.

5 VENIREPERSON 29: I'm a strong proponent of small
6 family farms.

7 THE COURT: Okay. All right. Thank you. Do you
8 think you can be fair to both sides?

9 VENIREPERSON 29: No, I do not.

10 THE COURT: Okay. Anyone else?

11 Yes, sir.

12 VENIREPERSON 23: Jerry Wilkes, Number 23. For
13 26 years I was a self-employed farmer. And before that I
14 worked as a farm laborer. So, you know, I have lived in farm
15 country all my life.

16 THE COURT: Okay. Do you think that's going to
17 affect you so that you can't be absolutely fair to all sides
18 in the case? It may, huh?

19 VENIREPERSON 23: It would be hard.

20 THE COURT: Okay. All right. Thank you.

21 Yes, ma'am.

22 VENIREPERSON 15: Heather Knuth, Number 15. I'm a
23 high school science teacher, and I have taken my students on
24 tours of Monsanto in Matthews, Missouri. And also the vice
25 president of our school board that I work at is a supervisor

1 at the Monsanto in Matthews, Missouri.

2 THE COURT: Okay. That's kind of some of my
3 follow-up questions, too, that I'll get to as well.

4 So you're not affiliated with Monsanto yourself?

5 VENIREPERSON 15: No. Not myself, no.

6 THE COURT: Do you think that you can set aside
7 that experience and your knowledge of the school principal or
8 whoever it was and be absolutely fair to all sides in this
9 case?

10 VENIREPERSON 15: I think so.

11 THE COURT: Okay. Do you have a concern about? I
12 want to make sure that everybody who serves is able to decide
13 the case on nothing but the testimony and evidence presented.
14 Can you do that then?

15 VENIREPERSON 15: To the best of my ability.

16 THE COURT: All right. Now, does any member of the
17 panel know either Mr. or Mrs. Bader? Would you please stand,
18 Mr. Bader and Mrs. Bader.

19 Okay. You may be seated.

20 Any member of the panel know either of the Baders
21 or any members of their family?

22 Yes, sir.

23 VENIREPERSON 17: I'm not honestly for sure,
24 because I don't know them that well, but Matt Bader -- I
25 don't know what the relationship is, but I did play high

1 school basketball against him and know him a little bit from
2 high school, but I haven't spoken to him in years or
3 anything.

4 THE COURT: Is that a relation, Mr. Bader?

5 MR. BADER: A nephew.

6 THE COURT: Okay. Well, if that's the only
7 connection, can you set that aside and be absolutely fair to
8 everybody here?

9 VENIREPERSON 17: Yes, I do believe so.

10 THE COURT: Next I'll introduce or ask for Mr. Bill
11 Randles from Kansas City. He is the lead counsel for the
12 Plaintiffs. Any of you know Mr. Randles?

13 And then I'll ask him to introduce the lawyers on
14 his team then.

15 MR. RANGLES: Thank you, Your Honor. Just this is
16 my wife, Bev Randles and my law partner. This is Angie
17 Splittgerber, our other law partner. This is Ben Mook, our
18 co-counsel. Tracey George, our co-counsel. Alyssa Leary is
19 a lawyer also helping us on the case.

20 And we have a couple of guest lawyers here. Should
21 I introduce them or not, Your Honor, on this case, but --

22 THE COURT: Well, if they're sitting at the counsel
23 table, introduce them.

24 MR. RANGLES: Lawyers assisting us today, working
25 on a related matter, are Mr. Don Downing from St. Louis and

1 Mr. Jacob Scott from St. Louis.

2 THE COURT: Do any of you know any of these
3 lawyers?

4 I see no hands.

5 Representing Monsanto is Mr. Jan Miller. And would
6 you introduce your team of lawyers?

7 MR. MILLER: Yes. Thank you, Your Honor. Good
8 morning, everybody. My name is Jan Miller. I'm joined here
9 by my colleagues David Dukes and Sharon Rosenberg. They are
10 attorneys who work with me.

11 This is Dr. Ty Witten from Monsanto. And the
12 gentleman here is Bob Gersham (Phonetic) who's frankly just
13 assisting us getting down all the information we are getting
14 from the answers to the questions this morning.

15 THE COURT: Mr. John Mandler is lead counsel for
16 BASF.

17 Mr. Mandler, will you do the same with your team of
18 lawyers.

19 MR. MANDLER: Thank you, Your Honor.

20 My name is John Mandler, representing BASF
21 Corporation. And I have with me Dr. Dan Westberg who is
22 here representing the company.

23 And then my colleagues, counsel who will help me
24 try the case, Tari fa Laddon, Troy Bozarth, Anthony Finnell,
25 and in the back Shane Anderson and Mary Jo Patara (Phonetic).

1 MR. MANDLER: Thank you, Your Honor.

2 THE COURT: Do any of you know any of the lawyers
3 for either of the Defendants then?

4 I see no hands then.

5 Do any of you or have you ever worked for Monsanto
6 or BASF or do you have any immediate relatives who have done
7 so, or do you have any other kind of connection to either
8 Monsanto or BASF that you think we should know about then?

9 Yes, sir.

10 VENIREPERSON 32: Darin McCall, Juror No. 32. I'm
11 in the material handling industry. We sell and service
12 forklifts for both farmers as well as BASF and Monsanto.

13 THE COURT: Okay. You said that you're going to
14 have a real problem serving because of your meetings, and so
15 forth.

16 VENIREPERSON 32: Correct.

17 THE COURT: Okay. Thank you.

18 Yes, sir.

19 VENIREPERSON 35: Number 35, Barry Barkovitz,
20 Hayti, Missouri. I've spent 17 out of the last 21 years
21 driving a truck, commercial truck driver, and seven of those
22 years I did farm grains, farm field to granary.

23 THE COURT: Okay.

24 VENIREPERSON 35: I also transported liquid
25 chemicals in the past. And I have been in one BASF plant

1 that would be in Geismar, Louisiana about 20 years ago and
2 one Monsanto plant that would be in southeastern Iowa -- I
3 think Muscatine -- maybe approximately eight years ago.

4 I don't know of any complications that would --
5 that would prevent me from giving everyone a fair
6 consideration and judgment, but you did mention that if you
7 had any ties.

8 THE COURT: Exactly what I wanted to know, so thank
9 you.

10 VENIREPERSON 35: Yes, sir.

11 THE COURT: Yes, sir.

12 VENIREPERSON 9: I'm Number 9. I hauled the
13 chemicals for the Monsanto in St. Louis. I've been a truck
14 driver 40 years, but I hauled for them for like 13 years ago
15 for about 10 years. But that's all I really know. I don't
16 know anything about the case or anything.

17 THE COURT: So you can set that experience aside
18 and be fair to everybody's side?

19 VENIREPERSON 9: Oh, yeah.

20 THE COURT: Okay. Thank you.

21 Anyone else?

22 Let me ask you who here has served on a jury
23 before?

24 Several of you.

25 Juror Number 2, was it a civil or criminal case?

1 VENIREPERSON 2: Criminal.

2 THE COURT: And where was it?

3 VENIREPERSON 2: Dexter, Missouri.

4 THE COURT: In state court?

5 VENIREPERSON 2: No. No. It was a robbery is what
6 it was.

7 THE COURT: That's criminal.

8 VENIREPERSON 2: That's what it was.

9 THE COURT: And so it was in state court in Dexter?

10 VENIREPERSON 2: Yes. Bloomfield.

11 THE COURT: Bloomfield?

12 VENIREPERSON 2: Bloomfield, yes.

13 THE COURT: Bloomfield. All right. So did -- did
14 you actually serve on the jury?

15 VENIREPERSON 2: Yes, sir.

16 THE COURT: Did you arrive at a verdict?

17 VENIREPERSON 2: Yes, sir.

18 THE COURT: Were you the foreperson?

19 VENIREPERSON 2: Yes, sir.

20 THE COURT: You were? Okay.

21 VENIREPERSON 2: We found him guilty.

22 THE COURT: Okay. All right. Thank you. That's
23 fine.

24 Anybody else serve on a jury here?

25 Okay. Let's start in the first row then Juror

1 Number 20.

2 VENIREPERSON 20: Yeah, Carl Wenskay. It was a
3 murder trial.

4 THE COURT: Okay. Where was it?

5 VENIREPERSON 20: Jackson.

6 THE COURT: Okay. And did you arrive at a
7 verdict?

8 VENIREPERSON 20: Yes.

9 THE COURT: And were you the foreperson?

10 VENIREPERSON 20: No.

11 THE COURT: All right. Thank you.

12 The next row. Yes, sir.

13 VENIREPERSON 26: David Whitaker, Number 26. I was
14 on a criminal jury Austin, Texas about 12 years ago.

15 THE COURT: Can you speak up just a little bit,
16 please.

17 VENIREPERSON 26: I was on a criminal jury trial in
18 Austin, Texas about 15, 12, somewhere in that neighborhood
19 years ago.

20 THE COURT: Did you arrive at a verdict?

21 VENIREPERSON 26: Yes, sir.

22 THE COURT: And were the you foreperson?

23 VENIREPERSON 26: No, sir.

24 THE COURT: Okay. Thank you.

25 Anyone else in the second row?

1 Third row? Or the -- I guess the -- yes.

2 VENIREPERSON 32: Darin McCall, 32.

3 THE COURT: I'm going to let you go.

4 So on the back row.

5 VENIREPERSON 40: Stephen Roberts. Number 40. I
6 served on a federal jury just over on Broadway several years
7 ago.

8 THE COURT: Criminal or civil?

9 VENIREPERSON 40: Criminal.

10 THE COURT: Did you arrive at a verdict?

11 VENIREPERSON 40: Yes.

12 THE COURT: Were you the foreperson?

13 VENIREPERSON 40: No.

14 THE COURT: Okay. Anybody else in the back?
15 Yes, ma'am.

16 VENIREPERSON 42: Betty Lou Eddy, 42. I did serve
17 on a jury in New Madrid County, and I was not the foreperson.

18 THE COURT: Okay. Thank you.

19 Yes, ma'am.

20 VENIREPERSON 43: Paula Smith, Number 43. I served
21 on a criminal, and I was the foreperson.

22 THE COURT: Did you arrive at a verdict?

23 VENIREPERSON 43: Yes.

24 THE COURT: Thank you.

25 Anybody else for jury service?

1 Let me ask you this again now that you know about
2 the trial. Do any of you hold any opinion or belief that
3 might keep you from being a fair and impartial juror other
4 than the ones who have already mentioned that?

5 Yes.

6 VENIREPERSON 38: I'm just honestly --

7 THE COURT: What's your number?

8 VENIREPERSON 38: Stephen Evans, 38.

9 THE COURT: 38. Okay.

10 VENIREPERSON 38: I'm more of conspiracy theory
11 buff. I don't know. I read a lot about Monsanto and BASF,
12 and I just -- I don't know.

13 THE COURT: You're going to have trouble being fair
14 and impartial to both sides then?

15 VENIREPERSON 38: Yeah, I would have a hard time.

16 THE COURT: Okay. Thank you.

17 Anyone else?

18 All right. Do any of you have any religious, moral
19 or ethical beliefs that would prevent from you serving on
20 this jury and making a decision in the case that would
21 prevent you, in other words, from sitting in judgment in the
22 case other than the ones who have already disclosed that?

23 (No response.)

24 THE COURT: All right. At this time I'm going to
25 ask lead counsel to come up to the bench for just a couple of

1 minutes.

2 (Proceedings were held at side bar, outside the
3 hearing of the jury.)

4 THE COURT: Okay. I want to strike some of these
5 people now so that we don't risk infecting the jury panel
6 further. There's some who unequivocally are going to be
7 stricken.

8 Any problem with that?

9 MR. RANGLES: No, sir.

10 THE COURT: And so I would just go through the list
11 then.

12 MR. MANDLER: Can I get my list?

13 MR. RANGLES: I'm going to grab my list.

14 THE COURT: So I don't know if whether to just let
15 them go now or to just advise you-all not to ask any
16 follow-up questions of them if they raise their hand.

17 MR. MANDLER: I think if we've decided we might as
18 well let them go.

19 MR. MILLER: Yeah.

20 THE COURT: Yeah, I think so too.

21 MR. RANGLES: Yeah. I would agree, although you
22 might want to take a break so they're not embarrassed.

23 THE COURT: Yeah. I agree with that.

24 MR. MILLER: Yes, sir.

25 THE COURT: So why don't we do that instead.

1 MR. RANDLES: Yes, sir.

2 THE COURT: And why don't we get rid of the 10 or
3 so people, and then we'll let you guys go.

4 MR. MILLER: Thank you.

5 (Proceedings resumed in open court.)

6 THE COURT: Ladies and gentlemen, we're going to
7 need a recess of about 10 minutes to work out some of the
8 issues. And so I'm going to ask to you go back to the jury
9 assembly room. And during this recess do not discuss case
10 among yourselves or permit anyone to discuss the case in your
11 presence.

12 And then we'll call you up right away. It will
13 only take 10 minutes or so.

14 Yes, sir.

15 VENIREPERSON 6: I have a question. Can I approach
16 the bench?

17 THE COURT: Yes, you may. The rest of you, please,
18 if you would, go back down to the jury assembly room.

19 (Proceedings resumed in open court outside the
20 presence of the jury.)

21 (Proceedings were held at side bar, outside the
22 hearing of the jury.)

23 THE COURT: Juror Number 6 has a response.

24 VENIREPERSON 6: My father is ill with liver
25 cirrhosis. I don't know how much longer he's going to have.

1 I don't think it's going to be in the next three weeks, but I
2 just kind of wanted to let that be known.

3 THE COURT: Okay. Do you think you can serve
4 then?

5 VENIREPERSON 6: I think I could, yeah.

6 THE COURT: Okay. Thank you.

7 MR. MANDLER: Thank you.

8 THE COURT: Okay. You can just go back to the jury
9 assembly room. Thank you.

10 MR. MILLER: This is Jan Miller. When we were up
11 here, Your Honor, somebody at my table noted -- I didn't see
12 it, but apparently Juror 16 raised his or her hand that he or
13 she might have a problem. Okay. There he is. Juror 16.
14 He said that he couldn't be fair or there was an issue. He
15 didn't get called on, and I think we all missed it.

16 THE COURT: Did you want to give a response here?

17 VENIREPERSON 16: I want to say my English is not
18 that good because --

19 THE COURT: Okay.

20 VENIREPERSON 16: -- yeah, I have to like go I
21 don't always understand.

22 THE COURT: Have you been able to understand me
23 just fine?

24 VENIREPERSON 16: Yes.

25 THE COURT: Okay. Tell me about that. What's your

1 background?

2 VENIREPERSON 16: Well, I own a family business,
3 and we speak our native language every day.

4 THE COURT: Which is what?

5 VENIREPERSON 16: Nails. Vietnamese.

6 THE COURT: Oh, Vietnamese? Okay.

7 VENIREPERSON 16: Yeah.

8 THE COURT: Well, you do pretty well it sounds
9 like.

10 VENIREPERSON 16: Well, like a lot of the longer
11 words I don't hear too often, and it distracts me, and I
12 don't know what it is.

13 THE COURT: Okay. Any questions that you-all have?

14 MR. RANGLES: No, Your Honor.

15 MR. MANDLER: No, Your Honor.

16 MR. MILLER No, Your Honor. Thank you.

17 THE COURT: Okay. Thank you.

18 (Proceedings resumed in open court outside the
19 presence of the jury.)

20 THE COURT: Okay. Counsel, it was clear to all of
21 us that we have maybe eight or ten people who clearly cannot
22 serve because they can't be fair or they have some
23 significant knowledge about dicamba, and I thought the better
24 practice so we didn't infect the jury panel any further is to
25 just go with a list and see what we can agree on about those

1 who should be stricken at this point. And then we'll let
2 them go. And we'll call the rest back in for the voir dire
3 that will be conducted by counsel.

4 So and some had personal situations that would
5 prevent them from serving too. I think the first was
6 Jonathan Haskell. He had some --

7 MR. MANDLER: What number, Your Honor?

8 THE COURT: Number 6. I'm sorry. He had some
9 economic problems.

10 MR. RANGLES: No objection, Your Honor.

11 MR. MILLER: No objection, Your Honor.

12 MR. MANDLER: Your Honor, isn't he the fellow that
13 we just talked to about his father's illness?

14 THE COURT: I think so, yeah. Plus his father's
15 illness, yeah.

16 MR. MANDLER: Although I don't think he was asking
17 to be excused. He said he could serve.

18 THE COURT: Yeah, but I have a note here that said
19 he was --

20 MR. MANDLER: I think it was he had to -- he and
21 his wife both work, so it was a financial issue.

22 THE COURT: It was the same person, wasn't it?

23 MR. MANDLER: I think it was.

24 THE COURT: He said he's really going to have a
25 hardship I thought.

1 MR. MANDLER: All right.

2 THE COURT: Plus his father's situation.

3 MR. MANDLER: Okay. No objection.

4 THE COURT: So 6 will be excused.

5 Ten, the lady -- Juror Number had some --
6 apparently serious physical problems, and I don't think that
7 she'll be able to serve. Any problem with her?

8 MR. RANGLES: Yes. I do object to releasing her
9 yet. I believe that we should inquire a little bit further.
10 I mean, she said she takes medicine, has a bad ankle, but I
11 think we should inquire further.

12 THE COURT: Well, she really said she was in a lot
13 of pain too, and that's my concern.

14 MR. RANGLES: Yeah. I don't think she ever said
15 she couldn't serve, though.

16 THE COURT: She said she can't lift her ankle. The
17 impression that I got was that her physical problems were
18 such that she couldn't lift her leg -- her ankle, and she had
19 to take medicines from time to time, and she was in pain.

20 MR. MILLER: No objection Your Honor, to striking
21 her.

22 MR. MANDLER: No objection.

23 THE COURT: So you do object to that?

24 MR. RANGLES: I do.

25 THE COURT: Okay. I'm going to allow you to ask

1 some follow-up questions, but I think that you'll find that
2 my impression was correct, so I'll withhold ruling on 10.

3 Number 1 has read about the case in the paper in
4 the Post Dispatch today and listened to KFVS TV accounts, and
5 he said that he didn't feel he could be fair. So any
6 objection --

7 MR. MILLER: No objection, Your Honor.

8 THE COURT: -- to 11?

9 MR. RANGLES: My recollection is he said it would
10 be difficult to set aside what he had learned.

11 THE COURT: Right.

12 MR. RANGLES: I don't know if that's equivocal to I
13 can't be fair.

14 THE COURT: Well, he told me --

15 MR. RANGLES: He did read it.

16 THE COURT: Yeah. Told me he knew details from
17 that article that were in addition to what I read in the case
18 summary.

19 MR. RANGLES: We won't object, Your Honor.

20 THE COURT: All right. So 11 will be excused.

21 Then 14, he's a farmer and said he can't be fair.

22 MR. MILLER: No objection, Your Honor.

23 MR. MANDLER: No objection.

24 MR. RANGLES: No objection.

25 THE COURT: Okay. 14 will be excused.

1 Then 15 I don't think that's a problem yet. You
2 can all ask follow-up questions of her.

3 The next one I had was 23. He was a farmer I
4 think for 26 years. He had a real doubt about being fair in
5 the case.

6 MR. MILLER: No objection, Your Honor.

7 THE COURT: I think he should be stricken or
8 excused.

9 Do you have any problem with 23?

10 MR. MANDLER: I have no objection, Your Honor.

11 MR. RANGLES: I do not.

12 THE COURT: 23 is excused then.

13 25 -- then 29 is a woman who was a registered
14 dietitian. She said she flat out can't be fair in the case.

15 MR. MANDLER: No objection there, Your Honor.

16 MR. MILLER: No objection.

17 MR. RANGLES: No objection, Your Honor.

18 THE COURT: Okay. 29 is excused.

19 MR. MILLER: Your Honor, you skipped 28 who said
20 that she's had issues with farmers using dicamba.

21 THE COURT: Yeah. I'm just going to do just mine,
22 and then I'll open it up to another strike for cause, but the
23 ones that I feel need to go for sure.

24 31 is the woman who said that she or some of her
25 family visited the farms and knew that they were -- had

1 trouble growing peaches. I'll let you ask follow-up
2 questions on that.

3 32 is Darin McCall. Now, he does need to be
4 excused. He's got bad job problems, and he sells
5 agricultural products. I think the hardship, he needs to
6 go.

7 MR. RANGLES: He doesn't want to be here. He's
8 going to keep coming up with excuses until he finds one that
9 works.

10 THE COURT: I think you're right. Any problem with
11 32?

12 MR. MILLER: No, Your Honor.

13 MR. MANDLER: No, Your Honor.

14 THE COURT: 32 is excused.

15 34, well, she said something about dicamba. She
16 knew about it. Or, Amy, do you have another update? We
17 probably need to have follow-up questions on 34.

18 MR. MANDLER: Yeah, Your Honor. I think she said
19 her husband --

20 THE COURT: Her husband was a farmer, yeah.

21 MR. MANDLER: And they've had problems with
22 dicamba.

23 MR. RANGLES: That wasn't this one, I don't think.

24 THE COURT: We'll let follow-up questions then in
25 another round.

1 Derek Cissell, self-employed hardship.
2 Unbeknownst to me or my wife his wife works for my wife, and
3 they have tickets that are nonrefundable tickets in two weeks
4 to go someplace. So he said he can't serve anyway. So I'm
5 going to excuse 36.

6 38 is a fellow who said he cannot be fair.

7 MR. RANGLES: He seemed prepared.

8 THE COURT: Yeah. So I think he's got to go. Any
9 objection to 38?

10 MR. MILLER: No objection, Your Honor.

11 THE COURT: Okay. All right. 41, same problem.
12 She's way down in Ripley County and indicated she can't
13 serve, can't be fair. Any problem with 41?

14 MR. RANGLES: No, Your Honor.

15 MR. MILLER: No objection, Your Honor.

16 THE COURT: 41 is excused.

17 Same with 42. And I apologize, she got to talking
18 about dicamba before I could stop her. And so I think she
19 should be excused. Any objection?

20 MR. RANGLES: Yeah.

21 MR. MANDLER: No, Your Honor.

22 MR. MILLER: No objection.

23 MR. RANGLES: Yeah. We have no objection.

24 THE COURT: 42 is excused.

25 Any other strikes for cause at this point? And

1 I'll give you another round of them after we finish all the
2 questioning, but any others for the Plaintiff?

3 MR. RANGLES: No.

4 THE COURT: For Monsanto?

5 MR. MILLER: Yes, Your Honor. Juror Number 28 my
6 notes indicate that she mentioned that they've had issues
7 with farmers using dicamba.

8 THE COURT: I think that's right. I think that's
9 what she said.

10 MR. MILLER: That is what she said.

11 MR. MANDLER: We have that as well, Your Honor. We
12 join.

13 THE COURT: I think she did say -- 28 said she's
14 had issues with dicamba, and so I think she needs to go. Do
15 you agree?

16 MR. RANGLES: We agree.

17 THE COURT: Okay. So I'll excuse 28.

18 MR. MILLER: Thank you, Your Honor.

19 The other one is 25. She said her husband is a
20 farmer and knows about dicamba.

21 THE COURT: Maybe some more follow-up questions on
22 that. I don't know she's out for cause yet.

23 MR. MILLER: Yes, Your Honor.

24 THE COURT: Any others? What about for BASF? And
25 I'll give you another round too at the end.

1 MR. MANDLER: No. We have the same concerns of 25,
2 but we'll follow up.

3 THE COURT: Okay. Fine. So let me recap: Jurors
4 Numbers 6, 11, 14, 23.

5 MR. RANGLES: What about 15?

6 THE COURT: What did I miss?

7 MS. GEORGE: 15.

8 MR. MANDLER: No, you didn't rule on 15.

9 THE COURT: Yeah, I did not rule on 15.

10 MR. RANGLES: No? Oh, I misheard you, Your Honor.

11 THE COURT: Yeah. 6, 11, 14, 23, 28, 29, 32, 36,
12 38, 41 and 42.

13 So do we all have an agreement that those people
14 can be excused? It's my inclination not to bring them back
15 but to just thank them for their service and pay them their
16 \$50 and let them go on their way. Any problem with that?

17 MR. MANDLER: No, Your Honor.

18 MR. MILLER: No, Your Honor.

19 MR. RANGLES: No, Your Honor.

20 THE COURT: Okay. So why don't we take a
21 ten-minute break ourselves.

22 MR. MILLER: May I just address one thing for the
23 record, Your Honor?

24 THE COURT: Yes.

25 MR. MILLER: I am assuming this was a slip of the

1 tongue by Mr. Randles, but in introducing some of the people
2 at the table there he referred to they're working on related
3 cases. I don't think there should be any conversation
4 before this jury or jury panel about any related cases.

5 THE COURT: Well, and I agree with that. And for
6 that matter since you-all are not -- are you-all -- Don, are
7 you -- have you entered an appearance in the Bader Farms?

8 MR. DOWNING: We have not.

9 THE COURT: Okay. In that case probably better not
10 to sit at the counsel table then who has not actually entered
11 an appearance in the case. Okay.

12 So why don't we take a ten-minute break, and we'll
13 call the jury and complete the questioning.

14 (Proceedings stood in temporary recess.)

15 (Proceedings resumed in open court outside the
16 presence of the jury.)

17 THE COURT: Be seated.

18 Before bringing the jury back in, any preliminary
19 matters for Plaintiffs first?

20 MR. RANGLES: Yes, Your Honor. There's one number
21 we missed that I wanted to raise with you if that's okay.

22 THE COURT: Okay.

23 MR. RANGLES: Number 15, that was the teacher whose
24 superior has -- works -- I think works directly in reference
25 with for Monsanto and has repeatedly taken her students to

1 the Monsanto facility. She's a science teacher, and she
2 indicated some doubt about her ability to be fair.

3 THE COURT: I didn't think she did, so I'm going to
4 allow follow-up questioning with her.

5 MR. RANGLES: Okay.

6 THE COURT: For the Defendants?

7 MR. MILLER: Yes, Your Honor. I have another
8 matter I need to bring to the Court's attention.

9 I'm sorry. Did you have something else, Billy?

10 MR. RANGLES: No. I'm sorry. I didn't hear what
11 you said.

12 MR. MILLER: Okay. I have another matter that I
13 need to bring to the Court's attention that I just found out
14 about during the break, and I apologize for having to disrupt
15 things here, but because of the way smart phones and social
16 media work I wanted to let Your Honor know and ask for the
17 Court to remind all counsel of their ethical obligations
18 herein.

19 I found out over the break that one of Plaintiffs'
20 attorneys on Friday and on Saturday was tweeting out --
21 re-tweeting, for example, the St. Louis Dispatch articles
22 about this trial and pulling out quotes that say things like,
23 "Through their partnership, joint ventures, shared
24 technologies and mutual greed, Defendants have conspired to
25 create and incur an ecological disaster in Missouri and other

1 states to increase the profits and demand for their dicamba
2 products."

3 Another tweet. That was on Saturday. Another
4 tweet that went out on Friday re-tweeted and sent out on
5 Twitter a -- I believe it's an NPR radio story about it, and
6 pulls out a quote that says, quote, "It takes very, very
7 little dicamba to induce that symptomatology. Those of us
8 who really enjoy a good diet coke when you open the tab or
9 you pop the lid off of a can of diet coke when you hear the
10 PST" -- that's PST -- "that's about all it takes. That's not
11 that much."

12 As the Court and I'm sure everybody is aware we're
13 not supposed to be making expert judicial statements or
14 putting things into the public that the jurors or potential
15 jurors could see, and I would ask the Court, please, to
16 remind everyone involved in this case not to do that.

17 MR. RANGLES: Your Honor, these are Facebook
18 postings pf articles in the public domain. There's no
19 ethical problem with that. There's no gag order in this
20 case, so we're not --

21 THE COURT: Well, that's -- you know, perhaps we
22 should have a gag order. I really think it would be best if
23 nobody talked to the press during the course of the trial.

24 MR. RANGLES: Well, when you say "nobody," I want
25 to be clear --

1 THE COURT: Oh, yeah.

2 MR. RANGLES: -- my understanding is Bayer has a
3 public relations team onsite in Cape. I don't know if BASF
4 does. So if we're going to be gagged, they need to be too.

5 THE COURT: Are you going for the goose/gander? Is
6 that what you're saying?

7 MR. RANGLES: I'm just saying -- I'm just saying we
8 are silent, they need to be effectively silenced, and they no
9 longer talk out of one side of their mouth.

10 THE COURT: I think that's what we need to do.

11 MR. MILLER: That's fine, Your Honor.

12 The ethical rule is 4-3.6 which says, quote, "A
13 lawyer who is participating or has participated in the
14 investigation or litigation of a matter shall not make an
15 extrajudicial statement that the lawyers know or reasonably
16 should know will be disseminated by means of public
17 communication and will have a substantial likelihood of
18 materially prejudicing an adjudicative proceeding in the
19 matter."

20 It doesn't matter whether they're re-tweeting
21 something that's already in the public domain.

22 THE COURT: I understand.

23 MR. MILLER: The lawyers need to stay out of it.

24 THE COURT: So agreed for both sides and
25 representatives of each of the three parties.

1 MR. RANGLES: Well, when he says "representative,"
2 I want to be clear we're meaning Bayer -- Monsanto, Bayer and
3 their agents and BASF and its affiliated companies and their
4 agents.

5 THE COURT: And Bader Farms and all of you folks.

6 MR. RANGLES: Okay.

7 THE COURT: Okay?

8 MR. MILLER: Thank you, Your Honor.

9 THE COURT: Let's bring the remaining people back
10 up.

11 THE CLERK: It will take a little while with the
12 elevator.

13 THE COURT: Can't you get Greg? Is Greg is down
14 there.

15 THE CLERK: I'm going to tell Christy to help me
16 too. They're just so slow.

17 THE COURT: So while we're waiting we started with
18 43. We struck 11. We're down to 32. So we still have
19 plenty.

20 (Proceedings resumed in open court.)

21 THE COURT: Ladies and gentlemen, as you see, we've
22 excused all of the people who indicated that they would not
23 be able to serve in the case.

24 So I have just one last question for you who are
25 left on the panel. Will each of you decide the case solely

1 on evidence presented and solely on the law as I give it to
2 you?

3 I would hope everybody would raise their hands on
4 that question.

5 All right. Mr. Randles.

6 VOIR DIRE EXAMINATION ON BEHALF OF THE PLAINTIFFS

7 BY MR. RANGLES:

8 MR. RANGLES: May it please the Court, Your Honor.

9 Good morning, ladies and gentlemen. As the Court
10 indicated to you, my name is Billy Randles. I'm one of the
11 lawyers representing Bader Farms in this case. I'm going to
12 just tag off what the Judge did and go back for a few
13 specifics and go back to some general questions if you don't
14 mind. I don't mean to pick on anybody. Just I have a few
15 questions based on a few of the answers.

16 Juror Number 10, good morning.

17 VENIREPERSON 10: Good morning.

18 MR. RANGLES: Ma'am, I heard you talking about
19 taking medication and the problems with your ankle.

20 VENIREPERSON 10: Yes.

21 MR. RANGLES: The Judge indicated we will take
22 breaks and that sort of thing. Do you think you'd be
23 physically able to serve if selected?

24 VENIREPERSON 10: No.

25 MR. RANGLES: Okay. Can you tell -- I'm not

1 trying to pry, but can you tell me just a little bit more
2 about that?

3 VENIREPERSON 10: My ankle?

4 MR. RANGLES: Yes.

5 VENIREPERSON 10: I sprained it, and it swells, and
6 sometimes the bottom of my feet, they swell bad.

7 MR. RANGLES: Thank you, ma'am. I appreciate
8 that.

9 Juror Number 15, good morning. You indicated
10 you're a teacher, and you -- as I understood it, you take a
11 class on field trips occasionally to the Monsanto facility?

12 VENIREPERSON 15: Yes, sir.

13 MR. RANGLES: Okay. Has that been a long-standing
14 practice?

15 VENIREPERSON 15: For a few years now, yes.

16 MR. RANGLES: Okay. And do you feel you have a
17 good relationship with the folks there at the Monsanto
18 facility?

19 VENIREPERSON 15: I feel like I do. As I mentioned
20 earlier, the supervisor is one of our school's board members
21 at that facility.

22 MR. RANGLES: Okay. And that -- I was wanting to
23 get into that. Given that -- and, of course, ultimately
24 that's your employer; right?

25 VENIREPERSON 15: Correct.

1 MR. RANGLES: Given that that relationship, would
2 you have any discomfort if a verdict in this case were
3 rendered for Plaintiff going back and explaining yourself to
4 your superior?

5 VENIREPERSON 15: Potentially.

6 MR. RANGLES: Would that cause you some discomfort?

7 VENIREPERSON 15: Yes, sir.

8 MR. RANGLES: Okay. And would that -- would that
9 weigh on your mind a bit if you were selected?

10 VENIREPERSON 15: Yes, sir.

11 MR. RANGLES: I'm not trying to put words in your
12 mouth, but does that cause you some apprehension?

13 VENIREPERSON 15: Yes, sir.

14 MR. RANGLES: Thank you.

15 Juror Number 25.

16 VENIREPERSON 25: Yes.

17 MR. RANGLES: Hello. You mentioned earlier that
18 your husband has some knowledge about dicamba because of his
19 farming experience.

20 VENIREPERSON 25: Yes, sir.

21 MR. RANGLES: Is that something you-all have
22 discussed in any detail?

23 VENIREPERSON 25: No, sir.

24 MR. RANGLES: Is it something you formed any
25 opinion about yourself?

1 VENI REPERSON 25: No, sir.

2 MR. RANGLES: Do you think your husband's knowledge
3 because of his farming in any way impacts your ability to be
4 fair to everybody?

5 VENI REPERSON 25: Yes.

6 MR. RANGLES: Do you think you could?

7 VENI REPERSON 25: Yes.

8 MR. RANGLES: Okay. You don't have any concerns
9 about that?

10 VENI REPERSON 25: No, sir.

11 MR. RANGLES: Thank you very much.

12 Juror Number 31.

13 VENI REPERSON 31: Yes, sir.

14 MR. RANGLES: Good morning. You had indicated
15 that one of your family members had trouble getting peaches
16 at Bader Farms?

17 VENI REPERSON 31: Yes. Bader Farms' availability
18 was shorter than normal. It wasn't the normal.

19 MR. RANGLES: Is that anything that would affect
20 your -- does that create any prejudgment about the case in
21 your mind?

22 VENI REPERSON 31: I kind of have a little
23 prejudgment against chemicals, because I try to eat clean,
24 but if I'm asked to be fair, I can be fair.

25 MR. RANGLES: Okay. And just we're not talking

1 about chemicals on the peaches in this case. We're talking
2 about the trees themselves and the soil, and that sort of
3 thing.

4 VENIREPERSON 31: Yes.

5 MR. RANGLES: So do you think your concern about
6 chemicals and food would impact your ability to be fair here
7 in any way?

8 VENIREPERSON 31: No, it wouldn't impact -- I
9 just -- that's my personal view on --

10 MR. RANGLES: Clean eating.

11 VENIREPERSON 31: -- clean eating.

12 MR. RANGLES: Yes, ma'am.

13 VENIREPERSON 31: Yes.

14 MR. RANGLES: But that wouldn't impact your ability
15 to judge the merits of this case?

16 VENIREPERSON 31: No. If I'm asked to do so, I
17 will.

18 MR. RANGLES: Thank you.

19 Juror Number 2. I wanted to ask you a little bit
20 more about your employment at Riceland Foods.

21 VENIREPERSON 2: Yes, sir.

22 MR. RANGLES: Have you had any interaction or
23 formed any opinions about Monsanto or BASF or their employees
24 through your work at Riceland Foods?

25 VENIREPERSON 2: No, sir.

1 MR. RANGLES: Are you aware that Riceland Foods has
2 been involved in agricultural litigation in the past?

3 VENIREPERSON 2: I may have heard some -- a little
4 bit but not enough to -- I don't -- none of them that I think
5 would affect this case.

6 MR. RANGLES: And do you have any idea who
7 Riceland's lawyers have been in any of those cases, or do you
8 know any of them?

9 VENIREPERSON 2: I don't know any of them no, sir.

10 MR. RANGLES: Or even the law firms involved?

11 VENIREPERSON 2: I don't, no, sir.

12 MR. RANGLES: Given that you work for a
13 substantially sized agricultural company yourself, would that
14 cause you to tilt even a little bit toward other big
15 agricultural companies?

16 VENIREPERSON 2: No, sir. I hold a pesticide and
17 chemical license of my own through the company, that is, and
18 do fumigations and stuff of our product and at times, and I
19 wouldn't have no --

20 MR. RANGLES: And could you set aside your own
21 knowledge of spraying and that sort of thing and just judge
22 based on the evidence you hear here today?

23 VENIREPERSON 2: Yes, sir.

24 MR. RANGLES: And one question, have you ever
25 sprayed herbicides yourself?

1 VENIREPERSON 2: I have a long time ago on a farm
2 this was when I was about 18, 19 years old, but nothing of
3 Riceland's products.

4 MR. RANGLES: It wouldn't involve dicamba in any
5 way?

6 VENIREPERSON 2: No, sir.

7 MR. RANGLES: Have you formed any opinions at all
8 about dicamba?

9 VENIREPERSON 2: No, sir.

10 MR. RANGLES: Okay. Not one way or the other?

11 VENIREPERSON 2: No.

12 MR. RANGLES: Okay. Thank you so much.

13 Juror 19. There we go. I notice you live way
14 down south like my clients do. Do you know any -- do you
15 know them or any of their extended family?

16 VENIREPERSON 19: No.

17 MR. RANGLES: No? It doesn't ring a bell. You
18 didn't go to school with any of their relatives as far as you
19 know?

20 VENIREPERSON 19: No.

21 MR. RANGLES: You don't have any judgment in mind
22 about Bader Farms or their family?

23 VENIREPERSON 19: No.

24 MR. RANGLES: No. Okay.

25 Juror Number 22, really the same questions. I

1 notice you're from way down south. Do you know my clients
2 or any of their extended family?

3 VENI REPERSON 22: No.

4 MR. RANGLES: To your knowledge, did you go to
5 school with any of their relatives?

6 VENI REPERSON 22: No.

7 MR. RANGLES: Formed no opinion one way or other
8 about them?

9 VENI REPERSON 22: No.

10 MR. RANGLES: Great.

11 Juror Number 34, you'd indicated your husband farms
12 and knows about dicamba. Have you-all discussed dicamba?

13 VENI REPERSON 34: Not really.

14 MR. RANGLES: Have you formed any opinions yourself
15 about dicamba?

16 VENI REPERSON 34: No.

17 MR. RANGLES: Does the fact that your husband farms
18 and knows about it, would that impact your ability to be fair
19 to everybody in this litigation?

20 VENI REPERSON 34: Sure.

21 MR. RANGLES: You could do that?

22 VENI REPERSON 34: Yes.

23 MR. RANGLES: Okay. Super.

24 Juror 21, how are you this morning?

25 VENI REPERSON 21: I'm fine.

1 MR. RANGLES: We haven't heard anything from you,
2 so I just wanted to ask you have you heard anything about
3 this case?

4 VENIREPERSON 21: No.

5 MR. RANGLES: Well, have you had any previous
6 experience with trials or litigation, or anything like that?

7 VENIREPERSON 21: I was called for jury duty one
8 time -- well, twice actually. I was not selected either
9 time. The first time was because I knew one of the -- I
10 don't know if he was the defendant or not, but I knew him
11 personally and just simply said I knew he told the truth, and
12 I would believe what he said.

13 MR. RANGLES: Okay. And have any of your prior
14 experiences given you any leanings one way or the other
15 toward plaintiffs or defendants or bad feelings about the
16 process?

17 VENIREPERSON 21: No.

18 MR. RANGLES: Okay. Super. So, again, I'm going
19 to just ask that question more broadly. The Judge asked
20 you-all specifically about jury service, so I won't want to
21 retread that.

22 But does anyone have an opinion about lawyers --
23 again, I have to ask this broadly or I invite jokes, but
24 opinions about lawyers or the judicial process that you bring
25 in that are pretty strong that you think might color your

1 thinking? Anybody have that?

2 (No response.)

3 MR. RANGLES: Anybody personally or have a friend
4 or family member had a bad experience with the judicial
5 process or litigation or lawyers that colors your judgment?

6 Yes, ma'am.

7 VENIREPERSON 31: My husband was involved in a
8 deposition. He was the pastor of the church that was being
9 sued. And during that deposition, the stress overload and
10 everything, he had a stroke. So he had some issues because
11 of that.

12 MR. RANGLES: And we're sorry because that's a very
13 serious thing. Did that leave a negative taste in your mouth
14 about the process in general or maybe --

15 VENIREPERSON 31: Not the process. That
16 situation. It did change his life forever. But that
17 particular process.

18 MR. RANGLES: So would the experience in that case
19 color your ability to judge a different case with different
20 lawyers and different parties in any way?

21 VENIREPERSON 31: It possibly could, because that
22 was my husband.

23 MR. RANGLES: Understood. Understood. So I
24 guess just the basic question is, and only you know this, is
25 that negative experience something you can set aside and be

1 fair to both sides?

2 VENIREPERSON 31: Yes.

3 MR. RANGLES: You think you can?

4 VENIREPERSON 31: I can.

5 MR. RANGLES: And that would not interfere with
6 your ability to serve as a juror?

7 VENIREPERSON 31: No.

8 MR. RANGLES: Thank you.

9 I want to ask a general question about lawsuits.
10 Does anybody feel there are too many lawsuits?

11 VENIREPERSON 16: Like I think every day like,
12 yeah, people --

13 THE REPORTER: I'm sorry, sir?

14 VENIREPERSON 16: So many lawsuits and people keep
15 being sued and stuff. It's crazy.

16 MR. RANGLES: I thank you for that. Do you think
17 that -- does that affect your -- you or whether if a person
18 brings a lawsuit, do you feel a little more suspicious of
19 them maybe more than a normal person might be?

20 VENIREPERSON 16: No.

21 MR. RANGLES: Do you think you could be fair to
22 both sides the same?

23 VENIREPERSON 16: Oh, I don't know, because I'm
24 friends with a peach guy here, and a lot of the farmers'
25 wives come to our salon, and I kind of bias on that. They're

1 like my friends, you know.

2 MR. RANGLES: So you like farmers?

3 VENIREPERSON 16: Like I said, I'm not going to be
4 fair, because a lot of the farmers here are my friends, you
5 know.

6 MR. RANGLES: So are you saying you think you would
7 lean toward farmers?

8 VENIREPERSON 16: Most likely.

9 MR. RANGLES: That's not something you can set
10 aside?

11 VENIREPERSON 16: Yes, sir.

12 MR. RANGLES: Does anyone when they hear reporting
13 about lawsuits and things like that think that lawsuits are
14 out of hand or too much -- the damages are too high? Anybody
15 have that preconception or concern?

16 Yes, ma'am.

17 VENIREPERSON 31: There does seem to be a lot of
18 lawsuits. It seems like people can sue for things that maybe
19 they should be able to resolve otherwise.

20 MR. RANGLES: Okay. And do you think that view
21 that there too many lawsuits would make you a little extra
22 skeptical of our lawsuit?

23 VENIREPERSON 31: No.

24 MR. RANGLES: Okay. Well, you know, the way our
25 system works is lawsuits are about money damages. That's how

1 you resolve them.

2 Does anybody have a concern about awarding money
3 damages if the law and the facts justify it? And by that I
4 just don't like the idea of awarding money damages. Is that
5 a problem for anyone?

6 (No response.)

7 MR. RANGLES: Well, does anyone say, Well, I could
8 award them, but there's a ceiling? I mean, I'm willing to
9 give some, but there's an amount no matter what the law and
10 facts say that I can't go above? Is anyone there? Does
11 anyone say whatever is asked, you know, there's just a number
12 in my mind I can't go above? Does anyone have a ceiling?

13 (No response.)

14 MR. RANGLES: Because I tell you right now this is
15 a large case where a large amount of money is going to be
16 asked for.

17 Does anybody say that gives me pause and that may
18 not be the case for me?

19 (No response.)

20 MR. RANGLES: Likewise -- oh, yes, sir.

21 VENIREPERSON 35: Barry Barkovitz, No. 35. Is this
22 a class-action lawsuit?

23 MR. RANGLES: No, sir. This is not a class action.
24 This is an action by Bader Farms alone. Is that better?

25 VENIREPERSON 25: That's fine.

1 MR. RANGLES: You don't like class actions?

2 VENIREPERSON 35: The publicity of it. The way the
3 media handles it makes me nervous.

4 MR. RANGLES: Okay. You don't have any concerns
5 about the case about an individual or party?

6 VENIREPERSON 35: No.

7 MR. RANGLES: Okay.

8 VENIREPERSON 31: No. I think I can be objective.

9 MR. RANGLES: Okay. Super.
10 This case will also seek what's called punitive
11 damages. And if the law and the facts justify them, those
12 are damages meant to award above the amount to compensate the
13 Plaintiff but an amount meant to award to punish or to deter
14 the conduct at issue.

15 It's a serious matter, and the amount sought in a
16 particular case of this size will be substantial. Does
17 anyone have a problem with that?

18 (No response.)

19 MR. RANGLES: Does anyone say, first of all, I just
20 don't like the idea of punitive damages? Anyone?

21 (No response.)

22 MR. RANGLES: And does anyone here, again, have a
23 ceiling in their mind that, you know, no matter what the law
24 and the facts call for there's just a number I can't get
25 above? There's a number whatever it is that I couldn't do?

1 Does anyone say that? Does anyone have a ceiling?

2 I see no hands.

3 Now, in this case just because of the logistics and
4 a number of things not worth getting into right now, a lot of
5 our testimony is going to be by video on that screen or on
6 those screens right in front of you.

7 And you will see the witness by video. And we will
8 have quite a bit of video evidence. I know we will. They
9 may. I simply don't know that.

10 Does anyone say I have trouble watching videos for
11 what might be several hours a day? Would that cause anyone
12 any concerns?

13 (No response.)

14 MR. RANGLES: Okay. And would anyone have any
15 concerns with treating the video evidence with the same
16 seriousness and weight as a person who comes in live? Would
17 that be a problem for anyone?

18 (No response.)

19 MR. RANGLES: Now, in this case -- this is a civil
20 case. Some of you may watch Law and Order and other shows
21 on television, criminal cases, where there's the standard of
22 proof is proof beyond a reasonable doubt, which is a very,
23 very high standard in the law.

24 Most of these matters in this case are going to be
25 what's called a preponderance of the evidence. And the

1 Court will tell you exactly what that means, but it means a
2 little more of one side or another.

3 Would anyone have a problem with applying the
4 standard the Court says is the burden of proof? And would
5 anyone want to substitute the higher criminal standard is
6 what I'm asking? Anyone have a problem with that?

7 (No response.)

8 MR. RANGLES: There's just different standards for
9 different matters. That's what I'm getting at. And would
10 anyone have an objection to what the Court says the standard
11 is?

12 I see no hands.

13 Now, one of the things you're going to have to do
14 in this case is evaluate the credibility of witnesses. And I
15 can tell you there's not going to be much agreement in this
16 case. And so some folks are going to say this over here, and
17 some other folks are going to be saying the exact opposite.

18 And you are the sole judges of credibility. You
19 alone decide who you find believable and what you find
20 believable. And that's one of the primary tasks you're
21 going to have in this trial.

22 Is there anyone who says I'm just not comfortable
23 doing that? I'm not comfortable trying to look at someone
24 and figure out if they're telling the truth and weighing one
25 competing story against another? Does anyone have a problem

1 with that? Does anyone have a concern about that process?

2 (No response.)

3 MR. RANGLES: Part of what's going to happen in
4 this case is a building block process, and you're going to
5 see video evidence. You're going to hear experts. And
6 you're going to see a lot from us especially of company
7 documents, internal company documents. And we're going to
8 be building our case brick by brick.

9 There's rarely a smoking gun in a lawsuit where the
10 one piece of evidence that resolves it all. It's a process
11 of brick building, and it does take some time. Is anyone
12 uncomfortable with proof through that method?

13 I see no hands.

14 One of the things you're going to be asked to do is
15 listen to expert witnesses. And it will get technical at
16 times, and it is our job to try to make it clear to you, but
17 one of the things you're going to be asked to evaluate in
18 this case is the qualifications of the different experts and
19 their credibility and weigh that with the opinions and the
20 account they give you.

21 Anyone uncomfortable listening to scientific or
22 technical evidence? Anyone have a problem with that?

23 (No response.)

24 MR. RANGLES: Now, in this case there's going to be
25 testimony about economic loss past, present and future. Is

1 Bader Farms going to be functionally destroyed and it cannot
2 go on?

3 Anyone have a problem listening to economic
4 evidence from qualified experts about the value of a business
5 in the future, the losses that were expected -- the lost
6 profits that were expected but were not being realized?
7 Anyone just say that sounds like something I wouldn't want to
8 weigh or evaluate? Anyone have a problem that, a concern
9 about that of any kind?

10 (No response.)

11 MR. RANGLES: Now, in this case this is what's
12 called a product liability case. We're suing because of the
13 product system. Now, a product can be sold -- and I'm not
14 trying to start on the law, but there's products on the
15 market that are sold that can still be the subject of civil
16 litigation, and a manufacturer might be found not responsible
17 for civil litigation or they might be found responsible.

18 Does anyone say, well, if a product is legal, I
19 don't think you should be able to sue about it? That's all I
20 need to know is that it's legal. Would the fact that a
21 product is legal weigh -- affect your ability to listen to
22 the law and the standards that the Court gives about whether
23 or not liability is likely to be imposed? Does anyone have a
24 problem with that?

25 (No response.)

1 MR. RANGLES: Now, there's going to be a process
2 here when you're in the jury room where you deliberate
3 together. Does anyone have any -- think they'll have a
4 problem deliberating with other jurors and coming to a
5 unanimous verdict?

6 (No response.)

7 MR. RANGLES: Your Honor, may I step to my table
8 for a moment?

9 THE COURT: Yes.

10 MR. RANGLES: Just a few random items.
11 Juror Number 26.

12 VENIREPERSON 26: Yes, sir.

13 MR. RANGLES: I see that you're a civil engineer?

14 VENIREPERSON 26: Yes, sir.

15 MR. RANGLES: Could you tell me in a general way
16 what sort of engineering you do?

17 VENIREPERSON 26: I work for City of Cape, and I
18 work on street projects mostly, and that sort of thing.

19 MR. RANGLES: Okay. Have you heard anything here
20 this morning that makes you doubt your ability to be fair?

21 VENIREPERSON 26: No, sir.

22 MR. RANGLES: Okay. Juror Number 1? I see that
23 you've been in the Sikeston Public Schools for 11 years.

24 VENIREPERSON 1: No, I don't. My husband does.
25 He's a teacher.

1 MR. RANGLES: Oh, he's a teacher. I'm sorry. I'm
2 sorry. And you're a homemaker. And is -- have you heard
3 anything here today that would cause you any concerns about
4 your ability to weigh this case?

5 VENIREPERSON 1: No, not at all.

6 MR. RANGLES: Okay. Juror Number 3.

7 VENIREPERSON 3: Yes.

8 MR. RANGLES: I see that you're a driver. Can you
9 tell me what kind of driving you do?

10 VENIREPERSON 3: I drive parts for O'Reilly's.

11 MR. RANGLES: So delivering them basically?

12 VENIREPERSON 3: I deliver parts.

13 MR. RANGLES: In the local area?

14 VENIREPERSON 3: Locally, yeah, installers.

15 MR. RANGLES: And you're in Scott City?

16 VENIREPERSON 3: Yes.

17 MR. RANGLES: Okay. All right. Have you heard
18 anything today that would cause any concerns about your
19 ability to be fair?

20 VENIREPERSON 3: No.

21 MR. RANGLES: Okay. Juror Number 4.

22 VENIREPERSON 4: Yeah.

23 MR. RANGLES: I see you're in beverage
24 distribution.

25 VENIREPERSON 6: Yes.

1 MR. RANGLES: In Fredericktown?

2 VENIREPERSON 6: Yeah. Well, I work for Kohlfeld
3 in Jackson, but I'm from Fredericktown.

4 MR. RANGLES: And have you heard anything today
5 that would cause you any concerns about your ability to be
6 fair and impartial?

7 VENIREPERSON 4: No.

8 MR. RANGLES: All right. You have to answer orally
9 for the court reporter.

10 VENIREPERSON 4: No. I'm sorry.

11 MR. RANGLES: That's all right. It's hard to get
12 used to.

13 Juror Number 5, you're a painter?

14 VENIREPERSON 5: Yes.

15 MR. RANGLES: And just in general whatever jobs
16 come up or do you work for a particular --

17 VENIREPERSON 5: I do commercial buildings.

18 MR. RANGLES: Commercial buildings. I see. And
19 around the Dexter area?

20 VENIREPERSON 5: All over the place.

21 MR. RANGLES: All over the place. Okay. Same
22 question, have you heard any concerns with anything that
23 causes you concerns?

24 VENIREPERSON 5: No.

25 MR. RANGLES: Juror Number 7, you're retired and a

1 pastor I think you said?

2 VENIREPERSON 7: Yes.

3 MR. RANGLES: Okay. And other than maybe making
4 sure you get out on time on Wednesday nights is there any
5 other impediment to you serving?

6 VENIREPERSON 7: None except for what I was talking
7 about earlier about the water pill I take. That's not too
8 big of a problem most of the time.

9 MR. RANGLES: Would you able to visit the -- if you
10 had ill congregation members, would you be able to visit
11 them, perhaps, in the evening or on the weekends? Do you
12 think that would be all right?

13 VENIREPERSON 7: Yes.

14 MR. RANGLES: Would that weigh on your mind in any
15 way?

16 VENIREPERSON 7: I have a small congregation.

17 MR. RANGLES: Okay. Okay. And have you heard
18 anything this morning that caused you concern about your
19 ability to be fair to both sides?

20 VENIREPERSON 7: No.

21 MR. RANGLES: Juror Number 8.

22 VENIREPERSON 8: Yes.

23 MR. RANGLES: I see that you're retired, and you
24 were with Faurecia.

25 VENIREPERSON 8: Faurecia, yes.

1 MR. RANGLES: Faurecia for 42 years.

2 Can you tell me what that business is.

3 VENIREPERSON 8: It's an automotive company. It's
4 the people that bought out Arvin Industries in Dexter,
5 Missouri. That's who owns it now. It's a French company.

6 MR. RANGLES: And you were there a long time.
7 Generally what did you do?

8 VENIREPERSON 8: I drove a forklift. I was a
9 maintenance man. I was a welder. Just a general operator,
10 and that's about all that I did there.

11 MR. RANGLES: Have you heard anything today that
12 gives you concern about your ability to be fair to both
13 sides?

14 VENIREPERSON 8: No, sir.

15 MR. RANGLES: Okay. Juror Number 9, I see you're a
16 retired truck driver --

17 VENIREPERSON 9: Yes.

18 MR. RANGLES: -- from Heartland Transport and
19 Walmart? Were you a Walmart trucker?

20 VENIREPERSON 9: No, not with Walmart.

21 MR. RANGLES: Oh, I'm sorry.

22 VENIREPERSON 9: And I worked for Freight Brothers
23 in St. Louis. That's where I hauled Monsanto and BASF
24 mostly like Roundup and some seed and cotton stuff. I did
25 haul that. But I don't know anything about the case, and I

1 never had any problems with their products.

2 MR. RANGLES: And did you form any particular
3 opinions, positive or negative, about Monsanto that would
4 impact your ability to be impartial in this case?

5 VENIREPERSON 9: I don't know what dicamba is.

6 MR. RANGLES: Okay. All right. And you haven't
7 heard anything -- have you heard anything this morning that
8 concerns you?

9 VENIREPERSON 9: No.

10 MR. RANGLES: Or that would cause you to be unfair?

11 VENIREPERSON 9: No.

12 MR. RANGLES: Juror Number 10 we've already
13 visited.

14 Juror Number 12, I see that you're a caregiver in
15 Sikeston, New Madrid area.

16 VENIREPERSON 12: Yes.

17 MR. RANGLES: And have you -- have you heard
18 anything today that causes you concern about your ability to
19 be fair to both sides?

20 VENIREPERSON 12: No.

21 MR. RANGLES: Okay. Juror 13, I looked at your
22 chart, and I'm having a little trouble reading it. Do you
23 live in Cape?

24 VENIREPERSON 13: I live outside of Cape in
25 Burfordville.

1 MR. RANGLES: Okay. So it's not too hard to get
2 over here for you?

3 VENIREPERSON 13: No.

4 MR. RANGLES: Have you heard anything this morning
5 to cause you any concern about your ability to weigh the
6 evidence fairly for both sides?

7 VENIREPERSON 13: No.

8 MR. RANGLES: Thank you.

9 And Juror 15, we have visited and Juror 16.

10 Juror 17, I see -- can you tell me what you do --
11 what your occupation is?

12 VENIREPERSON 17: I coach high school basketball,
13 and I'm a full-time sub.

14 MR. RANGLES: In Cape?

15 VENIREPERSON 17: No. In the Kelly School
16 District, which is just outside of it.

17 MR. RANGLES: And have you heard anything today
18 that would cause you any concerns about your ability to be
19 fair?

20 MR. HOHN: No, sir.

21 MR. RANGLES: Okay. And Juror 18 -- let me get to
22 my page. You live down in Poplar Bluff, do you?

23 VENIREPERSON 18: Yes, sir.

24 MR. RANGLES: And I see you're retired now?

25 VENIREPERSON 18: Yes.

1 MR. RANGLES: And what did you do before you
2 retired?

3 VENIREPERSON 18: I worked in nursing -- at a
4 nursing home. I was a medical technician.

5 MR. RANGLES: Okay. And have you heard anything
6 here today that would cause you any concern about your
7 ability to be fair to both sides?

8 VENIREPERSON 18: No, I haven't.

9 MR. RANGLES: Juror 19, we've already visited a
10 little bit, but I don't think I asked you what's your
11 occupation?

12 VENIREPERSON 19: I work at the Doniphan DMV.

13 MR. RANGLES: And have you heard anything today
14 that would cause you concern about your ability to be fair to
15 both sides?

16 VENIREPERSON 19: No, sir.

17 MR. RANGLES: Juror Number, I think it's 20?

18 VENIREPERSON 20: Yeah.

19 MR. RANGLES: You're a flooring installer?

20 VENIREPERSON 20: Yes.

21 MR. RANGLES: And here in Cape, is it?

22 VENIREPERSON 20: Yes.

23 MR. RANGLES: And have you heard anything that's
24 caused you any concerns?

25 VENIREPERSON 20: No, sir.

1 MR. RANGLES: Ma'am, we visited earlier, and we
2 visited earlier. But do either of you ladies -- have either
3 of you heard anything that would cause you any concern about
4 your ability to be fair?

5 VENIREPERSON 21: No, sir.

6 VENIREPERSON 22: No, sir.

7 MR. RANGLES: Okay. Sir, I have to say I can't see
8 your number.

9 VENIREPERSON 24: 24.

10 MR. RANGLES: 24. Thank you. And can you tell me
11 what your profession is?

12 VENIREPERSON 24: I'm a lineman for Ameren.

13 MR. RANGLES: Okay. And have you heard anything
14 today that would cause you any concern about your ability to
15 be fair?

16 VENIREPERSON 24: No, sir.

17 MR. RANGLES: And, Juror Number 25, we visited a
18 little earlier. And, 26, we visited.

19 Juror 27, can you tell me what your occupation is?

20 VENIREPERSON 27: I build bridges for Joe's Bridge
21 and Grading in Poplar Bluff.

22 MR. RANGLES: Have you heard anything here that
23 would cause you concern about your ability to be fair to both
24 sides?

25 VENIREPERSON 27: No, sir.

1 MR. RANGLES: And, sir, I'm not seeing your number.
2 Is it 30?

3 VENIREPERSON 30: 30.

4 MR. RANGLES: Can you tell me what your occupation
5 is?

6 VENIREPERSON 30: I'm a youth specialist for the
7 State of Missouri.

8 MR. RANGLES: And what does that entail?

9 VENIREPERSON 30: I work at a youth rehabilitation
10 treatment center, and I work for the Sierra Osage Treatment
11 Center. I just observe and make sure everything is safe.

12 MR. RANGLES: Okay. Have you heard anything here
13 today that would cause you any concern about your ability to
14 be fair?

15 VENIREPERSON 30: No, sir.

16 MR. RANGLES: Okay. Juror 31, we've visited.
17 Ma'am, your number?

18 VENIREPERSON 33: 33.

19 MR. RANGLES: 33. And can you tell me your
20 occupation?

21 VENIREPERSON 33: I'm a criminalist at the
22 Highway Patrol Crime Laboratory here in Cape.

23 MR. RANGLES: Oh, okay. All right. And have you
24 heard anything that would cause you any concern about your
25 ability to be fair?

1 VENIREPERSON 33: No, I have not.

2 MR. RANGLES: We visited, Juror 34.

3 Do you have any concerns about your ability to be
4 fair?

5 VENIREPERSON 35: So far no.

6 MR. RANGLES: Number 39, is it? And you're -- what
7 is your current occupation?

8 VENIREPERSON 39: I work at Terrace Gardens in
9 Perryville, Missouri. It's a retirement home for mentally
10 challenged people.

11 MR. RANGLES: And have you heard anything that
12 would cause you any concerns?

13 VENIREPERSON 39: No, sir.

14 MR. RANGLES: Okay. Juror Number 40, you're
15 retired now?

16 VENIREPERSON 40: Yes.

17 MR. RANGLES: Have you heard anything today to
18 cause you any concerns about your ability to be fair?

19 VENIREPERSON 40: No.

20 MR. RANGLES: Okay. Juror Number -- I can't --

21 VENIREPERSON 37: 37.

22 MR. RANGLES: 37. And your occupation is?

23 VENIREPERSON 37: I work with the Disabled Citizens
24 Alliance, and I'm a licensed med tech, and I am also a
25 caregiver.

1 MR. RANGLES: Okay. And have you heard anything
2 that would cause you concerns about your ability to be fair?

3 VENIREPERSON 37: No, sir.

4 MR. RANGLES: Thank you.

5 And, Juror 43, we've already heard from you a
6 little bit. Have you heard anything today that would cause
7 you concerns about your ability to be fair to both sides?

8 VENIREPERSON 43: No.

9 MR. RANGLES: Ladies and gentlemen, I want to thank
10 you for your attention and your courtesy in answering my
11 questions.

12 THE COURT: Mr. Miller.

13 VOIR DIRE EXAMINATION ON BEHALF OF
14 DEFENDANT MONSANTO BY MR. MILLER:

15 MR. MILLER: Thank you, Your Honor.

16 Good morning, everybody. I'm going to try not to
17 go over any of the same ground that Mr. Randles did.

18 And I want to emphasize something that Mr. Randles
19 said. We know it's odd to be sitting here and answering
20 these questions from strangers talking at you in a courtroom.
21 And the reason that we have to do this is it's not to
22 embarrass you. It's not to try to get in your business.

23 It's very important for everybody that's involved
24 in this case to have unbiased -- as possibly as unbiased
25 jurors as we can. We all have biases. You know, usually the

1 word "bias" means a bad thing. But we all have biases.

2 You know, there was that national championship game
3 against LSU and Clemson a few weeks ago. And if you had two
4 people watching, one was an LSU fan and one was a Clemson
5 fan, they could watch the same play, and they could see two
6 very different things. One of them is going to eye, you
7 know, a nice clean block, the other was going to see a clear
8 penalty. That's the just the nature of who we are.

9 And so these questions there is no right or wrong
10 answer. We're just trying to find out so that we can make
11 sure we're all on a level playing field. So that's the
12 reason to ask these questions.

13 Mr. Randles asked you about whether there are too
14 many lawsuits. I want to ask you kind of the flip of that.
15 Does anybody here believe that, you know what, the best way
16 to settle a dispute is to file a lawsuit and bring it to
17 court? Anybody have that feeling about lawsuits?

18 (No response.)

19 MR. MILLER: Okay. I also want to follow up on
20 something else you were asked before. For most of the claims
21 in this case the burden of proof is going to be by a
22 preponderance of the evidence, and, of course, Judge Limbaugh
23 is going to at the end of the case if you end up in the jury,
24 he's going to give you the instructions, and you need to
25 listen to him, but I think we're all confident that what he's

1 going to tell you is that the Plaintiffs have the burden of
2 proof. They brought this case and so they have to prove all
3 of the elements that the Judge will lay out for you.

4 Does anybody have any feeling, any problem
5 following that rule that it's the Plaintiff's burden when you
6 bring a claim to prove your case?

7 (No response.)

8 MR. MILLER: Let me ask the flip of that. Does
9 anybody think, as you're sitting here today, you know, I
10 understand it's Plaintiffs' burden, but I expect the
11 Defendants to get up there and explain themselves and why
12 they should be not be liable? The Defendants need to put on
13 some evidence to prove to me that they didn't do anything
14 wrong. There would be a lot of people that would normally
15 feel that way. Does anybody here have those sort of
16 thoughts as they're sitting here today?

17 (No response.)

18 MR. MILLER: And so if it turns out -- and,
19 obviously, you're the judges of the evidence. At the end of
20 the case whoever is sitting in that box is going to decide
21 what the truth is, what actually happened here.

22 Judge Limbaugh is the judge of the law. You're the
23 judges of the facts and the evidence. That's why we all
24 stand up when you come in here, because you are judges in
25 your own right. You're just the judges of the law and the

1 facts.

2 As you sit in that jury box at the end of this
3 trial, if you find, after looking at all the facts and after
4 applying it to the law that the Judge lays out to you, if you
5 decide, you know, what, the Plaintiff didn't prove part of
6 their case, they didn't prove that their damages, for
7 example, were caused by any of these products at issue here,
8 do you think you'll have any problem sending the Plaintiffs
9 away with no money regardless of whatever else you heard here
10 in this case?

11 (No response.)

12 MR. MILLER: Do any of you, as you sit here today,
13 think, you know, I hope the Defendants -- or, excuse me, I
14 hope the Plaintiffs end up with something? I mean, they've
15 gone this far, they've gone to federal court, my hope is I'm
16 going to wait, I'm going to listen to the evidence, I'm going
17 to weigh the evidence and the facts and apply the law, but I
18 really hope it turns out okay for the Plaintiffs in this
19 case? Does anybody have that type of feeling as they sit
20 here today?

21 (No response.)

22 MR. MILLER: Okay. You know, it's interesting.
23 In this case we actually have company versus company. As
24 you heard, the Plaintiff in this case is actually Bader
25 Farms, Incorporated. And, of course, the Defendants are

1 Monsanto Company and BASF Corporation, but still you have
2 larger corporations against a smaller corporation in this
3 case.

4 And so one of the things that I believe Judge
5 Limbaugh will be instructing you if you end up on the jury in
6 this case is that everybody is treated equally important.
7 Whether you're an individual or a corporation everybody is
8 treated the same way.

9 Would any of you have any problem treating a
10 corporate plaintiff or a corporate defendant the same way as
11 they would an individual plaintiff or defendant? There are a
12 lot of people who have issues with large corporations.
13 They're often in the news. And, you know, people honestly
14 have closely held beliefs that they believe are true
15 regarding large companies.

16 Anybody have feelings like that, and, as you sit
17 here, you think that might be something that's hard for me to
18 put out of my mind as I'm listening to all the evidence and
19 weighing out the facts and the evidence in this case?

20 (No response.)

21 MR. MILLER: So I always ask this whenever I'm in a
22 case where I have a corporation that I am representing. Can
23 you all promise me if you end up in the jury box that you're
24 going to treat each of the parties here -- regardless of
25 which company or which corporation it is you're going to

1 treat us all equally and fairly?

2 I'm assuming nobody is raising their hand and
3 saying they have a problem with that, so I am assuming we can
4 all assume we're going to be on equal playing fields.

5 There are -- I think with any case with any
6 organization you can look at it two ways when you're trying
7 to judge what they did. You can say there's one group of
8 people who says, Well, what I want to know is did they follow
9 the law? And then there's another group of people who think
10 I'm not necessarily concerned as to whether they follow the
11 law, I want to know if they acted ethically.

12 Who among us are -- which of you are in that second
13 group where you're more concerned about the behavior of the
14 company, how they acted as opposed to whether they followed
15 the law? Nobody?

16 Okay. The lawyers in this case, as you're going
17 to hear, have been going on for a while. And, again, Judge
18 Limbaugh is the judge of the law in this case, and sometimes
19 the lawyers have to object. The reason we object is
20 because, in our opinion, the other side -- and I'm not saying
21 they're doing anything wrong, they wouldn't be being saying
22 we're doing anything wrong, but we have a different view of
23 what the rules allow and don't allow.

24 So if one lawyer thinks the other side is trying to
25 get into something that shouldn't be allowed, they need to

1 stand up and object. The law requires us to do that. Does
2 anybody here think that when they're sitting there, you're
3 seeing one of the lawyers objecting in this case, that you're
4 going to be thinking, they must be trying to keep something
5 away from us, they must be trying to hide some of the
6 evidence from us, and I really want to know what they
7 actually don't want us to hear? Does anybody think that they
8 might feel that way if you have got lawyers popping up in the
9 courtroom objecting during the trial?

10 (No response.)

11 MR. MILLER: This case is going to be about --
12 partially there's going to be a lot of, as Mr. Randles said,
13 technical stuff here, there's going to be a lot of scientific
14 stuff here. You're going to hear about a lot of rules and
15 regulations and standards and things of that nature.

16 And I'm just curious if anybody has ever worked in
17 a job where part of your job responsibility was setting up
18 codes or enforcing codes or regulations and things of that
19 nature, anybody had any experience in any of the jobs you've
20 held where you've had to do deal with that type of
21 responsibility?

22 Yes, sir.

23 VENIREPERSON 34: Are you referring to codes and
24 ethics or codes of --

25 MR. MILLER: Those would be included, yes, sir.

1 VENIREPERSON 24: Well, I can tell you it's -- my
2 job is a lineman, but I am totally obligated to keep my
3 co-workers along to follow the rules so I can keep them safe.

4 MR. MILLER: What number are you?

5 VENIREPERSON 24: 24.

6 MR. MILLER: Are you in a -- and is that something
7 where you're in a supervisory position or --

8 VENIREPERSON 24: No, it's not I'm a supervisor.
9 It's just that every man is required to watch every other man
10 as if -- as if they were supervisory I suppose, but to make
11 sure they follow the rules and keep them and keep me safe.

12 MR. MILLER: So if you're dealing with high voltage
13 I'm sure it's very important that you follow those rules?

14 VENIREPERSON 24: Yes.

15 MR. MILLER: Okay. Thank you.

16 Yes, ma'am.

17 VENIREPERSON 33: Number 33. I work in a crime
18 lab, so I work -- I have case work that has to be fair, and I
19 can't -- you have to be impartial. You can't prejudge a
20 case.

21 MR. MILLER: You have a series of procedures and
22 rules that you have to follow?

23 VENIREPERSON 33: Yes.

24 MR. MILLER: And do you have anyone reporting to
25 you there, or do you report up with your results? I'm just

1 wondering where in the -- do you have people that you have to
2 oversee to make sure they're following the rules?

3 VENIREPERSON 33: No.

4 MR. MILLER: Okay. Anything about that for either
5 of you -- do you think because there are -- there is going to
6 be testimony about rules and regulations to follow and things
7 of that nature, anything about that that you think might give
8 you problems being fair and impartial to both sides in this
9 case?

10 VENIREPERSON 24: No.

11 VENIREPERSON 33: No.

12 MR. MILLER: Thank you.

13 Okay. Anybody else?

14 Yes, sir, Number 2.

15 VENIREPERSON 2: I'm a supervisor over the shipping
16 department there at Riceland, and the policies are all made
17 to be followed, and there are safety policies, and, you know,
18 those things, and I'm overseeing that those people are
19 following those policies.

20 MR. MILLER: Is that your primary -- you said
21 you're a supervisor there. Is that one of your primary
22 responsibilities?

23 VENIREPERSON 2: Yes.

24 MR. MILLER: Okay. And anything about that -- I'm
25 sorry?

1 VENIREPERSON 2: Cleaning practices and stuff too,
2 because like we handle food product that comes from the grain
3 to the table pretty much.

4 MR. MILLER: Okay. So you have to make sure that
5 those products are clean for want of a better word, safe;
6 right?

7 VENIREPERSON 2: Yes.

8 MR. MILLER: Okay. Anything about that experience
9 that you think would make it difficult for you to be
10 impartial and fair to both sides in this case?

11 VENIREPERSON 2: No.

12 MR. MILLER: Thank you.

13 Yes, sir, Number 7.

14 VENIREPERSON 7: When I worked for MoDOT I was a
15 troop leader, and I was responsible for setting up crews for
16 different jobs and to make sure all the signs are out. I
17 also had a pesticide license with the state that we had to
18 make sure that the chemicals were taken care of properly,
19 mixed properly, and all of that.

20 MR. MILLER: Were you -- did you use that pesticide
21 license while you were working with MoDOT?

22 VENIREPERSON 7: I had a license. I done some
23 mixing for the crews that went out and drove trucks for them
24 and stuff like that, yeah.

25 MR. MILLER: And did you actually mix the -- some

1 of the pesticides yourself?

2 VENIREPERSON 7: Yes.

3 MR. MILLER: Anything about that -- of course,
4 there's going to be testimony in this case, and I think
5 you'll find out that pesticide -- the term pesticide a lot of
6 us frankly think when you think of pesticide you think of bug
7 spray, pest. Actually, pesticide covers both bug sprays and
8 herbicides.

9 So there is going to be a lot of testimony in this
10 case about a type of pesticide herbicide. Do you think your
11 background would make it difficult for you at all to just
12 listen to the evidence here and be fair to both sides?

13 VENIREPERSON 7: No.

14 MR. MILLER: Thank you.

15 Yes, sir.

16 VENIREPERSON 35: Could you repeat the original
17 question, please.

18 MR. MILLER: I have been yammering on for a bit.
19 But the question whether you have in your job whether you had
20 any responsibility for either setting or enforcing codes or
21 rules or regulations.

22 VENIREPERSON 35: Setting or enforcing?

23 MR. MILLER: Yes, sir.

24 VENIREPERSON 35: Definitely no.

25 MR. MILLER: Following -- probably following,

1 though.

2 VENIREPERSON 35: Following, yes.

3 MR. MILLER: You're a truck driver, and I know
4 there are --

5 VENIREPERSON 35: -- motor vehicle carrier
6 regulations, yeah.

7 MR. MILLER: You have to keep a log of hours when
8 you get rest, what your mileage is, all of that; correct?

9 VENIREPERSON 35: There's several books of
10 regulations, especially as we're involved in hazmat, so at
11 least there's three books I know of that we have to be
12 mindful of.

13 MR. MILLER: Have you been involved in hazmat?

14 VENIREPERSON 35: In the past, yes.

15 MR. MILLER: Yeah?

16 VENIREPERSON 35: As a matter of fact, I've done
17 herbicides before. Syngenta was the company.

18 MR. MILLER: Okay. Okay.

19 VENIREPERSON 35: And, as I stated to the Judge
20 earlier, I was in Monsanto once and BASF once.

21 MR. MILLER: Got you. And when you were hauling
22 hazmat, did you have to have special training for that?

23 VENIREPERSON 35: Yes.

24 MR. MILLER: Okay.

25 VENIREPERSON 35: Yeah. That was -- that was

1 required before we did that with those companies.

2 MR. MILLER: Anybody else? I thought I might have
3 saw another hand.

4 Okay. Let me just ask a couple of individual
5 things. Juror Number 15, I know that you told Mr. Randles
6 that you would have some apprehension if you had to go back
7 and say that you found against Monsanto.

8 Let me ask you this: I understand, and I think we
9 can all understand why you feel that way. Do you think that
10 that would give you pause while you're in the jury box? In
11 other words, do you think that in spite of the fact that you
12 might not be looking forward to telling your boss that, that
13 you would be able to listen to the facts, listen to the
14 evidence, listen to the law that Judge Limbaugh gives you and
15 fairly and honestly for everybody -- all the parties involved
16 make a fair and honest opinion?

17 VENIREPERSON 15: I would try to.

18 MR. MILLER: I'm sorry?

19 VENIREPERSON 15: I would try to, yes, sir.

20 MR. MILLER: And let me ask it this way: It is
21 because -- and I don't mean to push you, and I'm sorry that
22 you're getting a lot of questions like this, but it's
23 obviously important.

24 We want -- all the sides want to know if somebody
25 is there they believe they can do it. And usually when

1 we're asked something, we say, Well, I'll try my best.

2 So one example that's used sometimes when we're in
3 jury selection is, well, assume, you know, that you're a
4 pilot, and you're flying us from here to LA. And if I come
5 up to you and say, you know, Are you going to land us safely?
6 And if you say, Yeah, I'm going to try to, does that mean
7 that you're going to do everything that you can, and you're
8 going to be able to pull that off --

9 VENIREPERSON 15: I hope so.

10 MR. MILLER: -- with your training and background?

11 Okay. Okay. Let me see if I have any other
12 individual ones. Has anybody heard -- I know you were asked
13 about this case, whether you heard anything in the news about
14 this case. Have any of you heard of any other lawsuits
15 involving first we'll start with Bader Farms, Inc.? Anybody
16 heard of any other lawsuits involving Bader Farms, Inc.?

17 (No response.)

18 MR. MILLER: Anybody heard of any other lawsuits
19 involving Monsanto?

20 Yes, ma'am, Number 21.

21 VENIREPERSON 21: There have been some on the news
22 in the past about Roundup and --

23 MR. MILLER: And do you understand that this case
24 has nothing to do with --

25 VENIREPERSON 21: Oh, I understand that.

1 MR. MILLER: Yeah. They're completely different
2 claims and completely different products. Would anything
3 about what you've heard about those cases influence you at
4 all or make it difficult for you to be an impartial and fair
5 juror for everybody in this case?

6 VENIREPERSON 21: No, I don't think so. I think
7 that each case is individual, you know.

8 MR. MILLER: Sure.

9 VENIREPERSON 21: Monsanto in general isn't a bad
10 company, the farmers aren't bad or --

11 MR. MILLER: Right.

12 VENIREPERSON 21: You know, each maybe made a
13 mistake somewhere but not overall.

14 MR. MILLER: And, frankly, I don't think any of us
15 could put it any better. It's for every case you've got to
16 look at the facts, you've got to look at the law and apply it
17 to just that case and not worry about anything else, so thank
18 you. I appreciate that.

19 VENIREPERSON 21: Yeah.

20 MR. MILLER: Anybody else? Any other lawsuits
21 they've heard of regarding Monsanto?

22 (No response.)

23 MR. MILLER: I'm going to leave BASF to them if
24 they want to ask that.

25 I'm going to wrap it up here with one last

1 question, because I've learned a long time ago I've been in
2 some cases where after I left the courtroom jurors come up to
3 me after the case is over and say, Well, you should have
4 asked us about this.

5 So I'm going to ask you is there anything else you
6 think any of us should know that might -- we might want to
7 know, you think they really should know this so that they
8 determine if they feel I'm going to be fair in this case to
9 everybody? Anything that you can think of that we haven't
10 asked you about?

11 Okay. Oh, yes, sir. Number 8.

12 VENIREPERSON 8: My wife's ex-husband is a crop
13 duster, and he sprays both of the company's products,
14 different types of their products all the time. I'm not
15 really friends with him or know anything about him other
16 than that he is related to my wife through marriage.

17 MR. MILLER: And anything about relationship at
18 all -- it sounds like you really haven't talk with him about
19 that?

20 VENIREPERSON 8: No.

21 MR. MILLER: Okay.

22 VENIREPERSON 8: No.

23 MR. MILLER: So I know the answer to this question
24 I think, but I've got to ask you for the record anything
25 about that that you think is going to make it difficult for

1 you to be fair and impartial to all the parties in this case?

2 VENIREPERSON 8: No.

3 MR. MILLER: Okay. Thank you, sir.

4 Anyone else?

5 Yes, ma'am, Number 15.

6 VENIREPERSON 15: Yes. My husband works for the
7 conservation department, so we are a very conservation minded
8 family. And prior to being a teacher I did work for the
9 conservation department as well. One of my jobs was to test
10 water quality, and one of the things I tested for was
11 pesticides.

12 MR. MILLER: And anything about that background
13 that you've had, you and your husband both, that you think
14 would enter into your thoughts in this case and make it
15 somewhat difficult for you to be fair and impartial to
16 everybody?

17 VENIREPERSON 15: Well, I am human. So, of
18 course, I do think that certain things do influence people,
19 but I will try to be fair.

20 MR. MILLER: Understood. Thank you very much.

21 Anybody else?

22 (No response.)

23 MR. MILLER: I want to thank you all for your time.
24 And for those of you who end up on the jury I want to thank
25 you ahead of time for the time that you'll be spending with

1 all of us over the next two to three weeks. Thank you.

2 THE COURT: Mr. Mandler.

3 VOIR DIRE EXAMINATION ON BEHALF OF BASF

4 BY MR. MANDLER:

5 MR. MANDLER: Thank you, Your Honor.

6 Good morning, ladies and gentlemen. My name is

7 John Mandler, and I am representing BASF.

8 I get to go third. You'll see for those of you who
9 stay with us throughout the trial I get to go third.

10 So the burden is on me not to say everything what
11 everybody has already said, so I'm going to try my best to do
12 that and not to cover the same ground.

13 But let me ask a question related to that first.

14 Since I am going to go third, BASF gets to put on its
15 evidence third, so we're going to ask everybody's patience to
16 wait until you hear our side of the story. Does anybody have
17 any concern that -- is anyone a fast decision maker and have
18 any concerns with waiting until we get our chance somewhat
19 toward the end of the case?

20 (No response.)

21 MR. MANDLER: Okay. Thank you. A lot of the
22 questions that could be asked have been asked, so I'm just
23 going to have a couple of cleanup general questions, but also
24 a few specific questions for you.

25 I know we had a couple of jurors Number 2 and 1

1 think Number 7 who I think said they personally have had some
2 experience applying herbicides and pesticides themselves.
3 Has anyone else ever applied a herbicide or a pesticide?

4 In what context, number 24?

5 VENIREPERSON 24: I worked on a farm after high
6 school into college, and I helped mix pesticides and
7 herbicides. I just did what they told me what to get.

8 MR. MANDLER: Is there anything about that
9 experience that would weigh one way or the other in your
10 judgment in this case?

11 VENIREPERSON 24: No, sir.

12 MR. MANDLER: Anybody else have personal experience
13 applying pesticides or herbicides, you know, even in your
14 backyard?

15 Number 21, please.

16 VENIREPERSON 21: I lived out in the country for
17 50 years. I ran the household for 30 years, me and my kids,
18 and, yeah, we've used herbicides and pesticides inside the
19 house, outside the house. I mean, it just comes with living
20 in the country.

21 MR. MANDLER: I understand.

22 Number 20.

23 VENIREPERSON 20: The same thing. I used Roundup
24 at the farm.

25 MR. MANDLER: Anything about that that's going to

1 weigh one way or another on your opinion?

2 VENIREPERSON 20: No.

3 MR. MANDLER: We talked a little bit about
4 involvement with agricultural issues. Does anyone here --
5 does anyone have any direct involvement with not necessarily
6 a company but either a government agency or a university on
7 anything that has to do with agricultural issues or food
8 production?

9 Number 19.

10 VENIREPERSON 19: I am an ag major at Three Rivers
11 College.

12 MR. MANDLER: An ag major. So you're studying it
13 now? Anything about that -- any information you've gathered
14 in your studies that you think is going to affect you?

15 VENIREPERSON 19: No.

16 MR. MANDLER: Mr. Miller asked you a little about
17 opinions about big companies. My client, BASF, is a chemical
18 company, not the largest, but a fairly good size chemical
19 company. Does anyone have any, I don't know, ideas that are
20 already in your mind that there are things about chemical
21 companies that you don't like or don't appreciate? Anybody
22 think there are some times that chemical companies do things
23 that may not -- you may not think are ethical or appropriate?

24 (No response.)

25 MR. MANDLER: And in weighing the actions of a

1 chemical company versus the action of another type of company
2 like a farm company does anybody think they're going to have
3 a leaning one way or the other from going into this trial?

4 (No response.)

5 MR. MANDLER: Does anybody have experience or
6 thoughts or any at least initial biases that maybe chemical
7 companies don't do the job they should making warnings about
8 their products?

9 (No response.)

10 MR. MANDLER: We all like to eat healthy or at
11 least some more than others. Does anybody have a real
12 strong desire I guess when you're in the shopping market you
13 go down and you immediately go to the non-GMO aisle or the
14 organic aisle? Is anybody a big proponent of organics?

15 VENIREPERSON 4: I am Number 4. I know that some
16 chemicals can cause cancer, and all that, and I try to stay
17 away from those as much as possible.

18 MR. MANDLER: Okay. Thank you. Anybody else that
19 thinks like Number 4?

20 VENIREPERSON 31: I like organic.

21 MR. MANDLER: Okay. All right. Thank you.

22 VENIREPERSON 15: I do prefer organic.

23 MR. MANDLER: Okay. Any other folks lean toward
24 organic?

25 We had an interesting question from a juror earlier

1 who said that he was -- he kind of liked to follow conspiracy
2 theories and like to read up on conspiracy theories. Any
3 other conspiracy fans or conspiracy theory fans here?

4 VENI REPERSON 35: I read a lot about it -- Barry
5 Barkovitz, Juror Number 35 -- but I try to keep that
6 objective, but there seems to be a lot of it out there.
7 It's hard to avoid sometimes.

8 MR. MANDLER: Easy to find, hard to avoid. I
9 understand what you're saying.

10 VENI REPERSON 35: Well, once you've been
11 overwhelmed by it, at some point you just want to shut
12 everybody else away from you just like the leave me alone
13 concept. But, I mean, it's -- I don't know. I guess
14 everything goes in waves, but I feel better the less I hear
15 that word.

16 MR. MANDLER: All right. I may just have a couple
17 of follow-up questions for a few of you individually.

18 Juror Number 1, and I'm just picking folks out we
19 may not have heard as much from.

20 Previously did you work for AT&T?

21 VENI REPERSON 1: I did, yes.

22 MR. MANDLER: What kind of job did you do for them?

23 VENI REPERSON 1: Sales.

24 MR. MANDLER: Did you enjoy that?

25 VENI REPERSON 1: No.

1 MR. MANDLER: Fair enough.

2 Juror Number 8, I think you mentioned that your
3 company had been basically taken over by a French company.

4 VENIREPERSON 8: Yes.

5 MR. MANDLER: And was it always, or was it
6 acquired?

7 VENIREPERSON 8: It was acquired. It began as a
8 spark plug manufacturer and grew up in Indiana to an exhaust
9 supplier, and then it was sold to a holding company first,
10 and then it was sold to the French company lastly.

11 MR. MANDLER: Anything about dealing with the
12 French company cause you any concerns with larger
13 corporations?

14 VENIREPERSON 8: The French companies do things
15 differently than American companies, but other than that, no.

16 MR. MANDLER: Juror Number 3, I think you said that
17 you drove for O'Reilly's. Earlier did you -- you said you
18 worked for Rubbermaid. Was that in a driving position too?

19 VENIREPERSON 3: That was driving and production.

20 MR. MANDLER: And where was the -- where's the
21 production facility?

22 VENIREPERSON 3: It's in Jackson, Missouri.

23 MR. MANDLER: And you were there a number of years?

24 VENIREPERSON 3: 34 years.

25 MR. MANDLER: Anything about that experience that

1 gives you a view one way or the other about larger companies?

2 VENIREPERSON 3: No.

3 MR. MANDLER: Juror Number 13, do I understand that
4 your husband worked for a while for La-Z-Boy?

5 VENIREPERSON 13: He still does.

6 MR. MANDLER: He still does. Okay. And what sort
7 of position does he have?

8 VENIREPERSON 13: He's a consultant, and he goes to
9 the furniture stores, and, you know, takes orders, tells them
10 how to do advertising, stuff like that.

11 MR. MANDLER: So he has to travel around quite a
12 bit?

13 VENIREPERSON 13: Yes.

14 MR. MANDLER: And does anything about his
15 relationship with the La-Z-Boy Corporation give you any
16 concern about big companies in any way?

17 VENIREPERSON 13: No.

18 MR. MANDLER: All right. We were talking about
19 litigation. Mr. Miller said he's going to leave the
20 question to me, so I better ask it. Has anybody heard of any
21 litigation involving BASF Corporation?

22 (No response.)

23 MR. MANDLER: All right. Final question. I
24 told you I was going to be quick. Does anybody -- if you
25 were standing up here and I was sitting in your seat, does

1 anybody think there's something you really ought to have
2 asked me to get about -- to get at something that may make me
3 not a good juror or, you know, may make me slightly biased or
4 lean one way or the other? Anybody have any concerns at all
5 about serving that they haven't yet had a chance to express?

6 (No response.)

7 MR. MANDLER: Okay. I'm going to -- thank you.

8 Yes, sir.

9 VENIREPERSON 16: That's a lot of words I don't
10 understand. Plaintiffs, I don't even know what that is.
11 And litigation, I don't know what that is either.

12 MR. MANDLER: Do you think that would make it
13 difficult for you to serve as a juror?

14 VENIREPERSON 16: Yes.

15 MR. MANDLER: Thank you. I appreciate that. And
16 I do want to thank all of you for your time for coming in
17 today and the time for those of you who are left that you'll
18 spend with us over the next three weeks.

19 Thank you, Your Honor.

20 THE COURT: Ladies and gentlemen, we'll need to
21 take another recess to reduce your number to those who
22 actually serve on the jury.

23 Juror Number 21.

24 VENIREPERSON NUMBER 21: Can I talk to you for a
25 minute, Judge?

1 THE COURT: Yes. Right afterwards as soon as
2 everybody leaves.

3 Juror Number 1.

4 VENIREPERSON 1: I need to speak with you as well.

5 THE COURT: That's fine too.

6 So otherwise I'll ask you if you'll go back down to
7 the jury assembly room, and we'll call you back up as soon as
8 possible as we reduce your number to those who will serve.

9 And remember not to discuss this case among
10 yourselves or with others during this recess.

11 (Proceedings resumed in open court outside the
12 presence of the jury.)

13 THE COURT: Lead counsel then come up.

14 Juror 1, come up.

15 (Proceedings were held at sidebar, outside the
16 hearing of the jury.)

17 THE COURT: If you'll speak into the microphone
18 there. You had something that you needed to discuss?

19 VENIREPERSON 1: Yeah, I'm a -- I have a five-month
20 old, and I'm still breast feeding, and I need to pump, which
21 if I am chosen when we take breaks and stuff, I'll need like
22 an area to do that.

23 THE COURT: We can make that arrangement. We've
24 got facilities.

25 VENIREPERSON 1: I'm sorry. I know it's

1 complicated, but I have to.

2 THE COURT: Okay. That's fine.

3 VENIREPERSON 1: That's the only thing.

4 THE COURT: We can accommodate you on that.

5 VENIREPERSON 1: And I'll try and do it as fast as
6 I can, but it usually takes me 20 minutes or so.

7 THE COURT: That's fine. Thank you for mentioning
8 that.

9 Okay. 21.

10 VENIREPERSON 21: Number 21, Rita Ragland, and I
11 just wanted to mention that I'm a Limbaugh, and we're
12 distantly related.

13 THE COURT: Well, you've got to understand I'm not
14 part of the lawsuit.

15 VENIREPERSON 21: I just didn't know if it
16 mattered. I just didn't know --

17 THE COURT: Thank you.

18 VENIREPERSON 21: -- if it had anything to, you
19 know --

20 THE COURT: I'm just the umpire.

21 VENIREPERSON 21: I just wanted you to know so --

22 THE COURT: Thank you.

23 VENIREPERSON 21: -- if you're related to me and
24 someone didn't know because I lived in Chester and just
25 wanted to make sure it didn't make a difference.

1 THE COURT: Thanks for mentioning that. Okay.
2 Thank you.

3 (Proceedings resumed in open court outside the
4 presence of the jury.)

5 THE COURT: Those who were at the bench with the
6 jurors why don't you have a seat. All right. I think at
7 this point everybody agrees that Juror Number 10 can be
8 excused?

9 MR. MILLER: Yes, Your Honor.

10 THE COURT: All right for plaintiffs?

11 MR. RANGLES: Yes, Your Honor.

12 THE COURT: Okay. Also Juror Number 16, he's
13 really having trouble. He's Vietnamese. He doesn't
14 understand the word litigation he said. Is that okay with
15 everybody to strike Juror Number 16?

16 MR. MANDLER: Yes, Your Honor.

17 MR. MILLER: Yes, Your Honor.

18 MR. RANGLES: Yes.

19 THE COURT: Well, at this point I'll ask Plaintiffs
20 for strikes for cause.

21 MR. RANGLES: All right. Your Honor, can I have
22 two minutes to confer?

23 THE COURT: Yes.

24 (A discussion was held off the record.)

25 MR. RANGLES: Your Honor --

1 THE COURT: This is just strikes for cause.

2 MR. RANGLES: -- strikes for cause and a concern,
3 but let me -- Juror 15, the teacher, you never got an
4 unequivocal she could be fair. Her final response to
5 Mr. Miller was I hope so. She said she would have an
6 apprehension rendering a Plaintiffs' verdict.

7 THE COURT: Any objection to 15?

8 MR. MANDLER: We do object for a cause for strike,
9 Your Honor. I think that she did that say she would listen
10 to the evidence, and she would listen to the instructions and
11 try to give a fair verdict, which is all we can ask of any of
12 our jurors.

13 THE COURT: Yeah. We've got plenty of people left,
14 so I'm going to strike her because of her involvement with
15 Monsanto and because in all of her answers frankly she did
16 say that she was going to have some discomfort, but you did
17 rehabilitate her to some extent, and so I'm going to strike
18 15.

19 MR. RANGLES: Your Honor, I'm also concerned with
20 the jurors who indicated they have a pesticide/herbicide
21 license, and I think that may warrant further inquiry.

22 THE COURT: I am unwilling to do that, but you can
23 use your peremptory strikes for those kind of people. I
24 don't think they have any reason why they wouldn't be fair to
25 both sides.

1 All right. Strikes for cause for Monsanto. Your
2 Honor, the only other one that --

3 MR. MILLER: Well, Juror 25, at one point
4 Mr. Randles asked her if it --

5 THE COURT: She really said she didn't know
6 anything about anything. She really didn't know -- she said
7 repeatedly she didn't know anything about dicamba. Is that
8 the one?

9 MR. MILLER: At one point he asked her would the
10 fact that your husband works with dicamba impact your
11 thoughts in the case, and she said yes. Now --

12 THE COURT: I didn't that get that yes.

13 MR. MANDLER: I think that may be right, but I
14 think it was about one where she was trying to say, yes, I
15 can be fair, but --

16 MR. MILLER: Okay.

17 THE COURT: Yeah. That's more my recollection.

18 MR. MILLER: Okay. So I'll deny that one.
19 Unless there's no objection. Plaintiffs, any objection?

20 MR. RANGLES: No. She said she could be fair.

21 THE COURT: All right. So that motion to strike
22 will be overruled.

23 Any others for Monsanto then?

24 MR. MILLER: No, Your Honor.

25 THE COURT: For BASF?

1 MR. MANDLER: No, Your Honor.

2 THE COURT: Okay. Let me do some calculating.

3 So actually we had one jurors to start. We have now excused

4 13. So we're at 30. And so what I would propose is that

5 we'll use the first 16 that are left, and I'll excuse the

6 remaining ones. And that way Plaintiffs will get four

7 peremptory strikes, and each of the two Defendants will get

8 two each. So let me count who we're qualifying then for the

9 first 16.

10 So I think we qualify one, two, three, four, five,

11 seven, eight, nine, 12, 13, 17, 18, 19. How many do I have

12 now?

13 MR. MILLER: That's 13, Your Honor.

14 THE COURT: Okay. 19, 20 and 21 and 22. Did I get

15 that right?

16 MR. MILLER: Yes, Your Honor.

17 MR. MANDLER: Yes, Your Honor.

18 THE COURT: Okay. So I'll ask the Plaintiffs to

19 make your strikes first. And then you can notify the

20 Defendants for each of their two strikes. And then, counsel,

21 I think it shouldn't take too long.

22 And so what I'd like to do is get the jury sworn in

23 and let them go to lunch. And we'll come back, and I'll read

24 the instructions and do opening statements; okay?

25 All right. We'll be in recess then.

1 (Proceedings stood in temporary recess.)

2 (Proceedings resumed in open court outside the
3 presence of the jury.)

4 THE COURT: Let me just confirm these jurors with
5 you. Juror Number 1 is Megan Cota. 2 is Patricia Sue Moll.
6 3 is Jacob Ralph Murdock. 4 is Jerry Lynn Caldwell. 5 is
7 Michelle L. Kimble. 6 is Christopher Davis. 7 is Carl W.
8 Wenskay. 8 is a Jaclyn Wood.

9 Counsel, did I get that right?

10 MR. RANGLES: Yes, Your Honor.

11 MR. MILLER: Yes, Your Honor.

12 THE COURT: BASF?

13 MR. MANDLER: Yes, Your Honor.

14 THE COURT: Okay. Why don't we bring the jurors
15 in. We will seat them over there. And then like we did
16 we'll call their names one by one, and they'll be seated.

17 (A discussion was held off the record.)

18 THE COURT: Okay. I see we have one person who is
19 all the way in Ripley County. That's a hard two hours, so
20 but apparently she's going to spend the night, and we'll put
21 her up in a hotel, so that will be okay. All the others --

22 MR. MOOK: Sorry to ask you to repeat this, but
23 which juror did you say is spending the night?

24 THE COURT: Jaclyn Wood, Number 8. She's from
25 Ripley County way way far away.

1 MR. MOOK: Thank you.

2 THE COURT: All the others are close, I mean,
3 within -- Dexter is the farthest, I think. Two from Dexter:
4 So since she -- Number 8 is spending night I think we can go,
5 if necessary, to 5:30 sometimes at night.

6 I haven't even looked at your proposed introductory
7 instructions. I've read them straight from the book.

8 (Proceedings resumed in open court.)

9 THE COURT: Be seated. Please take a seat in the
10 jury box at the direction of the Court Clerk as your name is
11 called.

12 COURT CLERK: Juror Number 1 is Megan Cota.
13 Megan, I need you to come and sit in this fourth one from the
14 left over here right in the middle. Number 2, Patricia
15 Moll. Number 3 Jacob Murdock. Number 4, Jerry Caldwell.

16 JUROR NUMBER 1: I'm sorry, where did you want me
17 to sit?

18 COURT CLERK: Just come over right here, and I'll
19 point you in the right direction. This chair right here.

20 Number 5 is Michelle Kimble. Number 6 is
21 Christopher Davis. I need you to go around this way. I
22 need you right in this chair. Number 7 is Carl Wenskay.
23 Number 8 is Jaclyn Wood.

24 THE COURT: Ladies and gentlemen, those of who you
25 are not selected I want to thank you for your service.

1 You'll be paid for the full day.

2 This is a public proceeding, and so you are welcome
3 to watch any part or all of this trial as you may wish, but,
4 otherwise, I thank you again for your service, and you are
5 excused at this time.

6 Members of the jury, please stand and be sworn in
7 by the Court clerk.

8 (Jury Sworn.)

9 THE COURT: All right. The first order of
10 business is to have a lunch break. So thank you for your
11 patience so far. I'll ask you to come back at 1:30, and
12 we'll get started. And then should they go to the jury
13 assembly room?

14 COURT CLERK: I'm going to take them back there
15 and take them and get their badges right now so they can go
16 directly to the jury room.

17 THE COURT: Okay. After your return.

18 Each day we'll try to go to 5:00 or maybe 5:30. I
19 know one of you is from Ripley County, but you're going to
20 stay in a hotel so that should take care of any problems.

21 JUROR NUMBER 8: No. I'm going to drive.

22 THE COURT: Oh, back and forth?

23 Oh, you know that we do have funds to pay for \$150
24 per diem that doesn't include -- does that include mileage
25 too?

1 COURT CLERK: No, that doesn't include mileage.

2 JUROR NUMBER 8: I only can do that for a couple of
3 days. I don't have that much money to do that every single
4 day.

5 THE COURT: Okay. Well, so you do get your mileage
6 and a per diem to stay at a hotel, though.

7 JUROR NUMBER 8: Okay.

8 THE COURT: What's your drive time, two hours?

9 JUROR NUMBER 8: Yeah, about two hours.

10 THE COURT: Okay. All right. Well, we'll still
11 try to go from 5:00 or 5:30, and hopefully that won't be too
12 inconvenient for you.

13 You'll be on your own for lunch each day. Feel
14 free to visit one of the downtown restaurants. I will give
15 you a list of instructions. I'll read those to you when we
16 start the trial and you return at 1:30.

17 And then we'll go over all the rules that you have
18 to abide by, but one of those rules is that you must not
19 discuss this case among yourselves or with others or permit
20 anyone to discuss it in your presence. And do not discuss
21 the case with anyone until it's finally given to you to
22 decide.

23 And so I'll elaborate on that to some great length
24 when you come back, but, in any event, thank you for your
25 patience.

1 You're excused for lunch. And come back -- she'll
2 show you where to come in an hour, and we'll start the trial
3 at that time.

4 (Proceedings resumed in open court outside the
5 presence of the jury.)

6 THE COURT: Any matters for Plaintiff before we
7 take our lunch recess?

8 MR. RANGLES: No.

9 THE COURT: For Defendants?

10 MR. MILLER: No, Your Honor.

11 THE COURT: Okay. We'll reconvene at 1:30. Court
12 is in recess.

13 (A lunch recess was taken.)

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C E R T I F I C A T E

I, Alison M. Garagnani, Registered Merit Reporter and Certified Realtime Reporter, hereby certify that I am a duly appointed Official Court Reporter of the United States District Court for the Eastern District of Missouri.

I further certify that the foregoing is a true and accurate transcript of the proceedings held in the above-entitled case and that said transcript is a true and correct transcription of my stenographic notes.

I further certify that this transcript contains pages 1 through 122 inclusive and that this reporter takes no responsibility for missing or damaged pages of this transcript when same transcript is copied by any party other than this reporter.

Dated Cape Girardeau, Missouri, this 28th day of January, 2020.

/s/Alison M. Garagnani
Alison M. Garagnani, CCR, CSR, RMR, CRR
Official Court Reporter