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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 4
VOLUME 4B - Pages 771-781

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

JANUARY 30, 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

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
Tarifa 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

1 (Proceedings resumed in open court outside the
2 presence of the jury.)

3 THE COURT: I have a notion to come over and sit in
4 the jury box too. I may come and sit down in the witness
5 box. That way I can watch everything and see the video. I
6 think I'll do that. I don't want to alarm anyone.

7 MR. RANGLES: Would you like us to adjust the
8 screen? Are you okay from this angle?

9 THE COURT: I'll watch it from the witness box.

10 THE CLERK: Okay. Are you ready for the jury?

11 THE COURT: Yeah. You lawyers don't tell the
12 Eighth Circuit what I'm doing.

13 MR. MANDLER: Can I have your chair, Your Honor?
14 (Proceedings resumed in open court.)

15 THE COURT: Be seated.

16 I don't mean to alarm you, but this video is four
17 and a half hours long. And my video screen I have to watch
18 the other way. So this way I can watch what you're watching
19 at the same time and keep watch over you and everybody
20 involved.

21 So I was sworn in.

22 So we'll have a four and a half hour video. We
23 won't be able to finish today, but we'll get in most of it,
24 and we'll again try to recess for the day around 5:00 o'clock
25 too, but we'll still have an hour or so left over especially

1 when we take the afternoon break.

2 So Mr. Randles or Ms. George?

3 MS. GEORGE: The Plaintiffs are ready to play the
4 video of Tina Bhakta.

5 (The video deposition of Tina Bhakta was played for
6 the jury at this time.)

7 THE COURT: Why don't we stop the video. And it's
8 a little after 2:30, and we'll take a recess.

9 Remember the admonition I gave you earlier. And
10 we'll call you back in in 10 or 15 minutes.

11 We'll be in recess.

12 (Proceedings stood in temporary recess.)

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

15 THE COURT: I don't know how long we'll go, but
16 with a video like this we probably ought to take a break
17 every hour or so. Maybe today if there is no bad weather, we
18 could go after 5:00 but take one more break and go to 5:15 or
19 5:30. We'll see how it goes.

20 MR. RANGLES: That would be great.

21 THE COURT: But we'll still need another hour, I
22 think, tomorrow.

23 (Proceedings resumed in open court.)

24 THE COURT: Let's all sit down.

25 We can begin again.

1 (Video of Tina Bhakta resumed.)

2 THE COURT: Why don't we stop the video again.

3 Do you want to take another short 10-minute recess
4 and then go to about 5:15 or 5:20? Is that okay? And we'll
5 grind through this. We really need to keep going on this,
6 because there's a lot of evidence.

7 So is that okay with everybody?

8 JUROR NUMBER 1: I could use a bathroom break.

9 THE COURT: Okay. Let's do that. And when
10 everybody is ready, we'll come back, and we'll try to go a
11 little longer this evening then.

12 Remember the admonition I gave you and thanks for
13 your patience.

14 We'll be in recess then.

15 (Proceedings stood in temporary recess.)

16 (Proceedings resumed in open court.)

17 THE COURT: This will be the last segment for the
18 day then.

19 Be seated then.

20 (Video deposition of Tina Bhakta resumed.)

21 THE COURT: Would this be a good time?

22 MR. RANGLES: This would be a nice break.

23 THE COURT: Okay. Thank you again for your
24 patience and your attentiveness.

25 Do not discuss the case among yourselves or with

1 others and don't permit anyone to discuss it in your
2 presence, and do not form or express any opinion about the
3 case until it's given to you to decide.

4 We'll reconvene at 9:00 o'clock.

5 The Court security officers will help you to your
6 vehicles. Thanks again. You're excused for the evening.

7 We will not work on Saturday or Sunday.

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

10 THE COURT: Okay. How much left? An hour and a
11 half max?

12 MS. GEORGE: He's looking for how much is left.

13 THE COURT: And then what after that?

14 MS. GEORGE: After that we'll probably do Jeff
15 Travers just to take a break from science stuff and give the
16 jury a break from science.

17 And then we'll do Tom Orr. We may be able to trim
18 that down. And I'm going to talk to you guys about that.

19 THE COURT: So all video tomorrow?

20 MS. GEORGE: Yes.

21 THE COURT: And then are we going to have to work
22 on Saturday?

23 MR. RANGLES: I don't know of anything that would
24 require it.

25 MS. MILLER: Not that I'm aware of, Judge.

1 THE COURT: So we've been through all of the video
2 concerns, I take it?

3 MR. MANDLER: Not with the BASF videos.

4 THE COURT: Anything else you want to discuss then?
5 John.

6 MR. MANDLER: Your Honor, I'd like to either now or
7 sometime soon revisit an issue that I brought up at our first
8 pretrial three weeks ago, which is how we're allotting time
9 among the parties.

10 THE COURT: How what?

11 MR. MANDLER: Allotting time among the parties.

12 If I can, Your Honor. I charted out the time
13 based on the video depositions that have been disclosed and
14 discussed and fought over as long as there -- as well as the
15 rest of the live witnesses making some pretty conservative
16 estimates on time for live witnesses given that our first
17 witness was on the stand for over a day and a half.

18 And right now the Plaintiffs will take until the
19 end of next week, which is two of our three weeks. I
20 think that would be giving only two days each for Monsanto
21 and BASF.

22 I think we need to consider somehow are we going to
23 cut these videos or how we're going to limit the number of
24 them, because if you don't put any limits on what the
25 Plaintiffs are doing, this is going to be a five- or six-week

1 trial, or it's going to be unfair, and we're going to get
2 pressed for time at the end of the case.

3 THE COURT: Well, I'm going to make sure that
4 doesn't happen, because -- go ahead.

5 MR. RANGLES: Well, what Plaintiffs (sic) are doing
6 is a little misleading. I'm not sure there's a single video
7 where our designations make up the majority, is there?

8 MS. GEORGE: For the BASF case against them I
9 designated three hours and 24 minutes to put on our entire
10 case against them. They have counter-designated, and with
11 rebuttals I can do their whole case in half a day.

12 THE COURT: I did notice that a lot of the
13 testimony from the live witness was defense evidence.

14 MR. MANDLER: I was up here for three minutes, Your
15 Honor.

16 THE COURT: Well, yeah, I mean, but at least
17 Monsanto. So but they're not going to have to recall that
18 particular witness to great lengths at least.

19 MS. MILLER: I don't think we're going to have to
20 recall him at all, Your Honor.

21 THE COURT: I was hoping that.

22 But I think the only thing I can tell you is that
23 we're going to go as long as it takes, and I'll make sure
24 everybody gets their say in this case whatever you need to do
25 with calling witnesses or introducing evidence whatever it

1 is.

2 I'm having to move all my dockets too, but we need
3 to get this case completed. It's as simple as that. But,
4 on the other hand, anything all of you can do to help
5 expedite things we really need to, because -- and you've made
6 some progress last night apparently, so I appreciate that.

7 MR. RANGLES: And that's actually what Mr. Miller
8 and I were discussing during not the last break, but the
9 first break this afternoon. I've been discussing it with
10 Ms. George.

11 We have some ideas based on what's already come in
12 through the live witnesses, which I think was more than we
13 expected on both sides, and trying to avoid duplication.

14 So people will be meeting on that. People will be
15 trying to trim that down. I hope Mr. Mandler's estimate is
16 pessimistic. I hope it is. And I think it is.

17 THE COURT: Okay. I may have to -- I don't know
18 what I'm going to do. Okay. We're adjourned for the day
19 then.

20 (A discussion was held off the record.)

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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 771 through 781 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 31st day of January, 2020.

/s/Alison M. Garagnani
Alison M. Garagnani, CCR, CSR, RMR, CRR
Official Court Reporter