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Co-counsel for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

)	
)	MDL No. 2741
)	Case No. 3:16-md-02741-VC
)	
This document relates to:)	<u>DEPOSITION DESIGNATIONS FOR</u>
<i>Hardeman v. Monsanto Co., et al.,</i>)	<u>PHASE 1 WITNESS DONNA FARMER</u>
3:16-cv-0525-VC)	
)	
)	

Plaintiff submits the following deposition designations in page:line format, including all objections and responses for Phase 1 Witness Donna Farmer:

Designation	Objection	Response
Plaintiff's Des.: 8:21-9:12	Monsanto's Objection: No objection to this	

1 2 3	(9/26/18 Transcript)	testimony if other substantive portions of Plaintiff's designations are permitted to come in.	
4 5 6 7	Plaintiff's Des.: 18:3-15 (9/26/18 Transcript)	Monsanto's Objection: Irrelevant to Phase 1 Vague	Plaintiff's Response: Foundation for Farmer's testimony, identity. Establishes that Dr. Farmer is someone with some gravitas at Monsanto as she was asked to be spokesperson for the company about glyphosate. No substantial prejudice here, let alone enough that substantially outweighs the probative effect.
8 9 10 11 12 13 14	Plaintiff's Des.: 278:20-280:9 (9/26/18 Transcript)	Monsanto's Objection: Irrelevant to Phase 1 Excluded pursuant to PTO 81 Prejudicial Argumentative Cumulative	Plaintiff's Response: This testimony specifically relates to the AHS and how Monsanto's chief toxicologist was highly critical of the AHS, from a methodological perspective, about the reliability of the study. Because Monsanto has made the AHS a central focus of their defense, the door is open to directly- contradictory statements by Dr. Farmer. Thus, it is relevant, was not excluded by PTO 81, and it not unduly prejudicial. Certainly not argumentative.
15 16 17 18	Plaintiff's Des.: 284:6-16 (9/26/18 Transcript)	Monsanto's Objection: Irrelevant to Phase 1 Excluded pursuant to PTO 81 Prejudicial Cumulative	Plaintiff's Response: See above. This is leading into a document where Dr. Farmer is severely critical of the AHS's methodology and scientific integrity.
19 20 21	Plaintiff's Des.: 284:21-285:19 (9/26/18 Transcript)	Monsanto's Objection: Irrelevant to Phase 1 Excluded pursuant to PTO 81 Prejudicial Cumulative	Plaintiff's Response: See above. This is about a document where Dr. Farmer is severely critical of the AHS's methodology and scientific integrity.
22 23 24 25 26	Plaintiff's Des.: 287:8-12 (9/26/18 Transcript)	Monsanto's Objection: Irrelevant to Phase 1 Excluded pursuant to PTO 81 Prejudicial Lacks foundation Misstates the record Cumulative	Plaintiff's Response: See above. Dr. Farmer claimed bias in the email, merely asking if she still thinks it is there now that she knows the results.

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Plaintiff's Des.: 287:24-288:20 (9/26/18 Transcript)	Monsanto's Objection: Irrelevant to Phase 1 Excluded pursuant to PTO 81 Prejudicial Lacks foundation Argumentative Cumulative	Plaintiff's Response: See above.
Plaintiff's Des.: 288:21-289:18 (9/26/18 Transcript)	Monsanto's Objection: Irrelevant to Phase 1 Excluded pursuant to PTO 81 Prejudicial Lacks foundation Cumulative	Plaintiff's Response: See above.
Plaintiff's Des.: 289:19-290:15 (9/26/18 Transcript)	Monsanto's Objection: Irrelevant to Phase 1 Excluded pursuant to PTO 81 Prejudicial Lacks foundation Cumulative.	Plaintiff's Response: See above.
Plaintiff's Des.: 290:16-292:1 (9/26/18 Transcript)	Monsanto's Objection: Irrelevant to Phase 1 Prejudicial Argumentative	Plaintiff's Response: See above.
Plaintiff's Des.: 292:2-293:20 (9/26/18 Transcript)	Monsanto's Objection: Irrelevant to Phase 1 Prejudicial Argumentative	Plaintiff's Response: See above.
Monsanto's Designation (1/24/19 Transcript): 550:17-21	No objection to 550:17-18, but object to the presentation of swearing in as it was not shown in the first video and it would suggest she was not under oath in the first examination.	Monsanto's Response: Swearing in of witness
Monsanto's Designation (1/24/19 Transcript): 551:11-552:2	Plaintiff's Objection: Irrelevant for phase one. This testimony is laying foundation for Farmer to be an expert. But, in denying Plaintiff's designations related to Dr. Reeves, the Court stated that Monsanto cannot	Monsanto's Response: Relevant to foundation, Dr. Farmer's background and education as a fact witness.

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	<p>proffer company witnesses as an expert in Phase One without opening the door to Monsanto’s internal discussions about the causation science. Indeed, Dr. Farmer has numerous emails and documents wherein she makes admissions about the science. The Court has excluded those. If the Court lets this in, and allows Dr. Farmer to be proffered as an expert, then we need to re-evaluate whether the Reeves’ testimony was properly limited for Phase one.</p>	
<p>Plaintiff’s Counter: 56:17-57:4 (9/26/18 Transcript)</p>	<p>Monsanto’s Objection: Monsanto has no objection to this testimony being played as a counter-counter so long as Monsanto’s counter-designations at 551:11-552:2 and 552:6-19 (1/24/19 Transcript) are permitted to be played.</p>	<p>Plaintiff’s Response: Counter to 551:11-552:2. Plaintiffs believe this irrelevant, but counter with this if the Court permits Dr. Farmer to offer expert testimony.</p>
<p>Monsanto’s Designation (1/24/19 Transcript): 552:6-19</p>	<p>Plaintiff’s Objection: Same objections as above.</p>	<p>Monsanto’s Response: Relevant to foundation, Dr. Farmer’s background and education</p>
<p>Monsanto’s Designation (1/24/19 Transcript): 553:12-554:12</p>	<p>Plaintiff’s Objection: Same objections as above.</p>	<p>Monsanto’s Response: Relevant to foundation, Dr. Farmer’s background and education</p>
<p>Monsanto’s Designation (1/24/19 Transcript):</p>	<p>Plaintiff’s Objection: This is the definition of expert opinion as Dr. Farmer is offering her</p>	<p>Monsanto’s Response: This is fact testimony under FRE 701. Relevant to counter testimony by Dr. Portier and to help put animal studies into context</p>

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581:15-21	opinion about dosing in animal studies. Monsanto has an animal toxicology expert already, Dr. Foster, and he is slated to testify in this trial. Dr. Foster is the proper way for Monsanto to “counter” Dr. Portier. Again, if Dr. Farmer is going offer expert testimony then the door opens to the rest of her expert opinions about the science as expressed in dozens of emails Monsanto has sought to exclude.	with human studies for the jury.
Plaintiff’s Counters: 222:10-223:4 (9/26/18 Transcript)	Monsanto’s Objection: Monsanto has no objection to this testimony being played as a counter-counter so long as Monsanto’s counter-designations at 581:15-21 and 581:23-582:10 (1/24/19 Transcript) are permitted to be played.	Plaintiff’s Response: This is a counter to Monsanto’s designation of 581:15-21. Plaintiff believes that Dr. Farmer cannot testify as an expert witness. However, if she is allowed to testify, this portion of her testimony should be shown to the jury.
Plaintiff’s Counters: 223:12-225:10 (9/26/18 Transcript)	Monsanto’s Objection: Monsanto has no objection to this testimony being played as a counter-counter so long as Monsanto’s counter-designations at 581:15-21 and 581:23-582:10 (1/24/19 Transcript) are permitted to be played.	Plaintiff’s Response: This is a counter to Monsanto’s designation of 581:15-21. Plaintiff believes that Dr. Farmer cannot testify as an expert witness. However, if she is allowed to testify, this portion of her testimony should be shown to the jury.
Monsanto’s Designation (1/24/19 Transcript): 581:23-582:10	Plaintiff’s Objection: Same objections as above to 581:15-21.	Monsanto’s Response: This is fact testimony under FRE 701. Relevant to counter testimony by Dr. Portier and to help put animal studies into context with human studies for the jury.
Monsanto’s Designation (1/24/19 Transcript): 666:3-6	Plaintiff’s Objection: Plaintiffs do not object to this testimony per se, but it will be irrelevant unless the next designation is played.	Monsanto’s Response: This testimony is consistent with PTO 81 and Monsanto agrees not to display the document or introduce the document in evidence.

<p>1 2 3 4 5 6 7 8 9 10 11</p> <p>Monsanto’s Designation (1/24/19 Transcript): 667:3-20</p>	<p>Plaintiff’s Objection: Relevance to Phase One. This is particularly irrelevant in the context of this witness. Monsanto has already gotten in this information in through the cross examination of Dr. Portier. Repeating this here is both cumulative and unfairly places emphasis on the EPA conclusions and assessment, as opposed to looking at the underlying science, as this Court has instructed the Parties is the purpose of Phase One.</p>	<p>Monsanto’s Response: This testimony is consistent with PTO 81 and Monsanto agrees not to display the document or introduce the document in evidence. (Monsanto agrees not to play line 18 which refers to “Exhibit 77”.)</p>
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Plaintiff reserve the right to supplement, revise, correct, clarify, withdraw, or otherwise amend these designations.

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Dated: February 28, 2019

ANDRUS WAGSTAFF, PC

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Co-counsel for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of February 2019, a copy of the foregoing was filed with the Clerk of the Court through the CM/ECF system which sent notice of the filing to all appearing parties of record.

/s/ Aimee H. Wagstaff

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