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CONFIDENTIAL PURSUANT TO PTO 200 and FRE 408

August 20, 2020

Via E-mail

Honorable Vince Chhabria
United States District Court, Northern District of California
Vccrd@cand.uscourts.gov

RE: *Response to Pretrial Order No. 216*

To the Honorable Vince Chhabria,

This letter is Andrus Wagstaff, PC's confidential response to Pretrial Order No. 216, ECF 11293. On January 21, 2020 this Court entered PTO 200, wherein it reminded the parties that all "settlement discussions in this MDL are confidential and that the Court will not hesitate to enforce the confidentiality requirements with sanctions." Undersigned counsel also believes the confidentiality provisions of FRE 408 require the contents of this letter remain confidential. Further, given the sensitive moment we are facing in this litigation, public disclosure of the contents of this letter could jeopardize any future settlement discussions between Monsanto and Andrus Wagstaff, PC.

Andrus Wagstaff, PC

Aimee Wagstaff and Vance Andrus began in person meetings with members of Monsanto's settlement team and special master Ken Feinberg in May 2019. The meetings and frequent communication continued through the new year and eventually, on March 2, 2020, Andrus Wagstaff signed a non-binding Term Sheet with Monsanto that included potential resolution of AW's Roundup cases. The use of a non-binding Term Sheet was an intermediate step utilized at Monsanto's insistence and contains the basic settlement deal points. Pursuant to its terms, the Term Sheet converted into a binding MSA by a date certain if: (1) Monsanto had not terminated the deal and (2) the Parties had not negotiated and executed a binding MSA. The parties worked long hours to negotiate a binding MSA between them, and in fact were successful in reaching final agreement on a MSA for execution. Andrus Wagstaff delivered an executed copy of the final MSA to Monsanto on July 14, 2020. Prior to and after the June 24, 2020 settlement announcement referenced in PTO 216, Monsanto has continued to represent to Andrus Wagstaff varying versions of "our deal is done" and "we have a deal". Despite such representations, Monsanto has refused to execute the fully negotiated and binding MSA.

Since the initial signing of the Term Sheet on March 2, 2020, instead of signing the MSA, Monsanto has requested and received from Andrus Wagstaff no less than twelve (12) extensions of the date certain on the Term Sheet. Yesterday, on August 19, 2020, Monsanto terminated the Andrus Wagstaff Term Sheet because Andrus Wagstaff would not agree to yet another three-week extension.

Andrus Wagstaff has three Wave 1 cases and requests the Court rule on all pending motions and either remand them for trial or consolidate them for trial before your honor in the Northern District:

1. *Giglio v. Monsanto*, 3:16-cv-05658;
2. *Russo v. Monsanto*, 3:16-cv-06024; and
3. *Perkins v. Monsanto*, 3:16 -cv-06025.

Aimee Wagstaff will be prepared to discuss the contents of this letter during the August 27, 2020 case management conference or during a Rule 408 settlement conference should the Court want more details.

/s/ Aimee H. Wagstaff, Esq.

Cc via e-mail:

Brian Stekloff, Esq
William Hoffman, Esq
Julie du Pont, Esq
Lana Varney, Esq
Vance Andrus, Esq
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