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 7 **MONSANTO COMPANY**

8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA

10 IN RE: ROUNDUP PRODUCTS  
 11 LIABILITY LITIGATION

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

12 This document relates to:  
 13 ALL ACTIONS

14  
 15 **MONSANTO COMPANY’S CASE MANAGEMENT STATEMENT**

16 Pursuant to this Court’s Pretrial Order No. 1, No. 16-md-02741-VC (N.D. Cal. Oct. 6,  
 17 2016), ECF No. 2 (the “Order”), Monsanto Company (“Monsanto”) submits its Case  
 18 Management Statement.

19 **I. THIS COURT’S ORDER PRIORITIZING GENERAL CAUSATION  
 20 DISCOVERY AND AN EARLY DAUBERT HEARING SHOULD BE  
 MAINTAINED.**

21 Section 8.ii of this Court’s Order asks about the parties’ positions on “[t]he possibility of  
 22 bifurcating proceedings to address general causation before any plaintiff-specific questions.”  
 23 Order at 4. Monsanto agrees that bifurcated discovery remains the most efficient path to reach a  
 24 potentially dispositive issue at an early stage and asserts that the newly created MDL and the  
 25 additional cases before this Court only strengthen the reasoning behind this Court’s prior  
 26 analysis in favor of bifurcation.

27 This Court was the first in this litigation to rule on this issue, bifurcating discovery in two  
 28 cases and defining the common general causation question as “whether glyphosate and/or

1 Roundup can cause non-Hodgkin’s lymphoma.” Order Granting Motion for Bifurcation,  
2 *Hardeman v. Monsanto Co.*, No. 3:16-cv-00525-VC (N.D. Cal. June 16, 2016), ECF No.66, and  
3 *Stevick v. Monsanto Co.*, No. 3:16-cv-02341-VC (N.D. Cal. June 16, 2016), ECF No. 20. In fact,  
4 Monsanto requested, and the Judicial Panel on Multidistrict Litigation (the “Panel”) selected, this  
5 Court based in part on its having two of the “most procedurally advanced actions,” in which a  
6 schedule had been implemented to maximize the efficiencies offered by bifurcation and permit  
7 the early resolution of a significant issue. *See In re Roundup Prods. Liab. Litig.*, MDL No. 2741,  
8 2016 WL 5845994, at \*2 (J.P.M.L. Oct. 3, 2016). Echoing the reasoning offered by this Court  
9 for its bifurcation decision, the Panel noted that “[r]egardless of the particular formulation of  
10 Roundup at issue (all of which employ glyphosate as the active ingredient), or the nature of  
11 plaintiff’s exposure to glyphosate, all the actions entail an overarching query—whether  
12 glyphosate causes non-Hodgkin’s lymphoma in persons exposed to it while using Roundup.” *Id.*  
13 at \*1-2.

14 The creation of the MDL does not change this well-reasoned analysis. In fact, bifurcation  
15 is just as, if not more, necessary now given plaintiffs’ attorneys’ claims that this litigation will  
16 involve thousands of plaintiffs.<sup>1</sup> The outcome of the general causation proceedings may obviate  
17 the need for discovery regarding issues such as specific causation that will consume significant  
18 party and Court resources. Further, the scientific evidence continues to exemplify why it is  
19 essential for this Court to take an early look under *Daubert* at whether plaintiffs can meet their  
20 general causation burden. In the months since this Court’s initial bifurcation ruling, the  
21 Environmental Protection Agency (“EPA”) has issued additional findings that cast more doubt  
22 on plaintiffs’ ability to do so. For example, in September, EPA’s Office of Pesticide Programs  
23 (“OPP”) issued a 227-page evaluation of glyphosate’s carcinogenic potential, concluding that  
24 “[t]he strongest support is for [the descriptor] ‘not likely to be carcinogenic to humans’ at doses

25 <sup>1</sup> *See* Pls’ Mot. for Transfer of Actions to the So. Dist. of Ill. Pursuant to 28 U.S.C. §1407 for  
26 Coordinated or Consolidated Pretrial Procs. at 2, *In re Roundup Prods. Liab. Litig.*, MDL No.  
27 2741 (J.P.M.L. July 27, 2016), ECF No. 1; Resp. in Supp. of Pls’ Mot. for Transfer of Actions  
28 Pursuant to 28 U.S.C. § 1407 for Coordinated or Consolidated Pretrial Procs. at 1, *In re Roundup*  
*Prods. Liab. Litig.*, MDL No. 2741 (J.P.M.L. July 29, 2016), ECF No. 8.

1 relevant to human health risk assessment.”<sup>2</sup> Other regulatory agencies around the world also  
 2 have continued to reject the conclusions on which plaintiffs’ claims are based. *See, e.g.*,  
 3 Australian Pesticides and Veterinary Medicines Authority, *Regulatory position: consideration of*  
 4 *the evidence for a formal reconsideration of glyphosate* at 12 (Sept. 2016), [http://apvma.gov.au](http://apvma.gov.au/sites/default/files/publication/20701-glyphosate-regulatory-position-report-final.pdf)  
 5 [/sites/default/files/publication/20701-glyphosate-regulatory-position-report-final.pdf](http://apvma.gov.au/sites/default/files/publication/20701-glyphosate-regulatory-position-report-final.pdf) (“exposure  
 6 to glyphosate does not pose a carcinogenic or genotoxic risk to humans” and “there are no  
 7 scientific grounds for placing glyphosate and products containing glyphosate under formal  
 8 reconsideration”); *id.* at 10-11 (“Following the assessment of the 19 studies relevant to the IARC  
 9 carcinogenicity classification of glyphosate (Tier 2), the [Australia Department of Health’s  
 10 Office of Chemical Safety] concluded that there did not appear to be any new information to  
 11 indicate that glyphosate poses a carcinogenic or genotoxic risk to humans.”); New Zealand  
 12 Environmental Protection Authority, *Review of the Evidence Relating to Glyphosate and*  
 13 *Carcinogenicity* at 16 (Aug. 2016), [http://www.epa.govt.nz/Publications/EPA\\_glyphosate](http://www.epa.govt.nz/Publications/EPA_glyphosate_review.pdf)  
 14 [\\_review.pdf](http://www.epa.govt.nz/Publications/EPA_glyphosate_review.pdf) (“The overall conclusion is that – based on a weight of evidence approach, taking  
 15 into account the quality and reliability of the available data – glyphosate is unlikely to be  
 16 genotoxic or carcinogenic to humans and does not require classification under [New Zealand’s  
 17 Hazardous Substances and New Organisms Act] as a carcinogen or mutagen.”).<sup>3</sup>

18 **A. A Substantial Amount Of General Causation Discovery Is Already**  
 19 **Completed, And It Would Be Inefficient To Stop That Progress.**

20 Continuing with bifurcated general causation discovery is also supported by the  
 21 substantial progress made to date. Pursuant to the schedule entered by this Court, Monsanto has  
 22

23 <sup>2</sup> EPA’s Office of Pesticide Programs, *Glyphosate Issue Paper: Evaluation of Carcinogenic*  
 24 *Potential* at 141 (Sept. 12, 2016) (“EPA OPP Report”), [https://www.regulations.gov/](https://www.regulations.gov/document?D=EPA-HQ-OPP-2016-0385-0094)  
 25 [document?D=EPA-HQ-OPP-2016-0385-0094](https://www.regulations.gov/document?D=EPA-HQ-OPP-2016-0385-0094). At the same time, EPA posted an October 2015  
 26 final report by its standing Cancer Assessment Review Committee (“CARC”), in which CARC  
 27 endorsed EPA’s existing classification of glyphosate as “Not Likely to be Carcinogenic to  
 28 Humans.” Cancer Assessment Review Committee, Health Effects Division, Office of Pesticide  
 Programs, U.S. Environmental Protection Agency, *Cancer Assessment Document – Evaluation*  
*of the Carcinogenic Potential of Glyphosate* at 10, 77 (Final Report, Oct. 1, 2015) (“EPA CARC  
 Final Report”), <https://www.regulations.gov/document?D=EPA-HQ-OPP-2016-0385-0014>.

<sup>3</sup> *See also infra* at pp. 17-18 (describing additional rejections of IARC’s glyphosate conclusion).

1 directed significant legal and financial resources to move general causation discovery forward  
2 toward an early *Daubert* hearing. To date, Monsanto has produced over 3.5 million pages of  
3 documents. That production contains over 870,000 pages of non-custodial files, including  
4 Monsanto's EPA registration and correspondence files related to glyphosate-based herbicides  
5 ("GBH"), Monsanto's files of scientific studies and literature related to the safety of GBH to  
6 people and other mammals, material safety data sheets regarding Monsanto GBH, labels for  
7 Monsanto GBH, and public communications by Monsanto regarding the safety of its GBH.  
8 Notably, these collections were produced without the use of search terms.

9 Monsanto's production also consists of files, documents, and e-mails from five  
10 custodians that it identified as having substantial information relevant to the general causation  
11 inquiry. Consistent with the proportionality requirement in the Federal Rules of Civil Procedure,  
12 these custodians' records were culled via the use of search terms, after which the subset was  
13 reviewed for relevancy, confidentiality, and privilege. Monsanto negotiated these search terms  
14 with counsel from the Miller Firm, which represents plaintiffs in five cases in this MDL,  
15 including *Stevick*. Monsanto provided the initial production set to counsel at Andrus Wagstaff,  
16 counsel for plaintiffs in 11 cases in this MDL, including *Hardeman*, in June 2016 (along with  
17 several later supplements), and to Weitz & Luxenberg, plaintiffs' counsel in six cases in this  
18 MDL, on August 16, 2016.<sup>4</sup> By September 30, 2016, after various interim productions,  
19 Monsanto had largely completed production of all documents and e-mails from these five  
20 custodians.

21 On October 15, 2016, Monsanto produced additional documents held by seven other  
22 Monsanto employees initially selected by the Miller Firm and then jointly requested by the  
23  
24

25 \_\_\_\_\_  
26 <sup>4</sup> The negotiated search terms are reasonable, thorough, and compliant with the goals of efficient  
27 discovery of electronic information set forth in Rule 34. Monsanto remains willing to cooperate  
28 with plaintiffs' lead counsel in discussing any future good faith requests related to the search  
terms. However, Monsanto's proposed schedule, *see infra* pp. 10-15, assumes that the search  
terms and other procedures for document production will remain unchanged.

1 Miller Firm and Andrus Wagstaff in their June 21, 2016 e-mail to this Court,<sup>5</sup> as well as a small  
2 supplement for one of the original five custodians due to an earlier processing difficulty.  
3 Monsanto does not agree that all of the additional custodians selected by plaintiffs possess  
4 information relevant to general causation and has made specific objections to the depositions of  
5 two of the seven individuals identified by the Miller Firm and Andrus Wagstaff.

6 In addition to this voluminous document production, Monsanto has received three sets of  
7 requests for production (including over 31 requests, not including sub-parts) and multiple  
8 interrogatories from Andrus Wagstaff. Although some of those inquiries are duplicative of the  
9 documents Monsanto already agreed to produce, others are not. Monsanto has responded to the  
10 first set, including making appropriate objections. The time for responding to the second and  
11 third sets has not yet expired. Monsanto anticipates objecting to many of these requests on a  
12 variety of bases, including that some are impermissible attempts to force the collection of  
13 documents from Monsanto custodians who have no knowledge about general causation issues.

14 Because a significant portion of the necessary general causation discovery has already  
15 been completed, an early *Daubert* hearing on general causation can still be achieved.

16 **B. Other Courts Presiding Over Roundup® Lawsuits And Other Products**  
17 **Liability MDLs Have Bifurcated Discovery To Address General Causation**  
18 **First.**

19 After this Court's decision to bifurcate discovery in *Hardeman/Stevick*, the only other  
20 federal court to rule on this issue reached the same conclusion. See Order Granting Defendant's  
21 Motion to Bifurcate Discovery, *Giglio v. Monsanto Co.*, No. 3:15-cv-2279-BTM (WVG), 2016 WL  
22 4098285, at \*1 (S.D. Cal. Aug. 2, 2016) (“[T]he Court finds that conducting discovery in phases is an  
23 efficient solution that may prevent the parties from engaging in extremely broad and potentially  
24 wasteful discovery.”). Like this Court, the *Giglio* court emphasized the importance of deciding  
25 the potentially dispositive issue of general causation before proceeding with discovery on other

26  
27 <sup>5</sup> See E-mails between Timothy Litzenburg, The Miller Firm, and Kristen Melen, Courtroom  
28 Deputy to the Honorable Vince Chhabria (June 21, 2016) (Ex. 1 to concurrently filed Declaration  
of Joe G. Hollingsworth (“Hollingsworth Decl.”)).

1 issues in plaintiff’s far-ranging complaint, which mirrors those filed in all of the cases now  
2 consolidated in an MDL before this Court:

3           The allegations in plaintiff’s complaint span forty years and delve  
4 into defendant’s marketing, labeling, and testing of Roundup.  
5 Proceeding immediately on all issues would subject the parties to  
6 highly extensive discovery that may ultimately be unnecessary if  
7 defendant prevails on its *Daubert* motion. Limiting phase one to  
8 general causation, on the other hand, will enable the parties and the  
9 Court to arrive expeditiously at a potentially dispositive issue that  
10 the Court firmly believes can be separated from other liability and  
11 damages issues.

12 *Id.*

13           Furthermore, the *Giglio* court specifically refuted the arguments against bifurcation  
14 asserted by the same plaintiff’s counsel in *Hardeman* and mirrored in oppositions filed by  
15 plaintiffs in other cases where the issue was raised but not resolved prior to the formation of this  
16 MDL. For example, in rejecting plaintiff’s argument that bifurcation was not necessary or  
17 efficient because a Missouri state court had denied Monsanto’s bifurcation request, the court held  
18 that “[f]ocusing initial discovery on general causation serves efficiency interests for both the  
19 parties and the Court, regardless of how discovery does, or does not, proceed in” state court. *Id.*  
20 at \*2.

21           In response to plaintiff’s arguments that the scope of general causation discovery was too  
22 amorphous to be efficient, the *Giglio* court expressed “confiden[ce] that the parties (in the first  
23 instance) and the Court (if necessary) will be able to reasonably define the boundaries of  
24 discovery on general causation and promptly resolve any discovery disputes if they arise.” *Id.*  
25 The court rejected a variety of other arguments against bifurcation as well. *See id.* (rejecting  
26 argument that an appeal of an adverse *Daubert* ruling would cause delay as “highly speculative,”  
27 and finding that even if bifurcation allows defendant to “attack plaintiff’s experts twice, the same  
28 opportunity will also be given to plaintiff”); *id.* (noting that plaintiff will have an opportunity for  
full discovery as long as general causation is proven, and “any public interest in this case surely



1 lies in the question of whether Roundup is capable of causing non-Hodgkin’s lymphoma, which  
 2 is the issue on which phase one discovery will focus”).<sup>6</sup>

3 For the same reasons, numerous courts presiding over products liability MDLs have  
 4 similarly sequenced discovery so that general causation proceeds first. *See, e.g.*, Scheduling Order  
 5 Relating to Phase I of Discovery at 1, *In re Viagra Prods. Liab. Litig.*, 0:06-md-01724-PAM (D.  
 6 Minn. June 30, 2006), ECF No. 38 (“[T]argeted discovery and resolution of the issue of general  
 7 causation serves the interest of all parties and the Court, promotes judicial efficiency, and prevents  
 8 the potential waste of the parties’ and the Court’s resources.”) (Ex. 4 to Declaration of Joe G.  
 9 Hollingsworth in Support of Monsanto Company’s Motion for Scheduling Order Regarding General  
 10 Causation, *Hardeman v. Monsanto Co.*, No.: 3:16-cv-00525-VC (N.D. Cal. May 3, 2016), ECF No.  
 11 49-4); Initial Case Management Scheduling Order Regarding General Causation, *In re Incretin*  
 12 *Mimetics Prods. Liab. Litig.*, No. 3:13-md-02452-AJB-MDD (S.D. Cal. Feb. 18, 2014), ECF No.  
 13 325 (“direct[ing] the parties’ initial document production and motion practice” and “expert-  
 14 related discovery” to “the threshold issue of whether general causation” exists) (Ex. 3 to  
 15 Declaration of Joe G. Hollingsworth in Support of Monsanto Company’s Motion for Scheduling

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16 <sup>6</sup> In addition, two California state courts presiding over cases involving personal injuries  
 17 allegedly caused by exposure to Monsanto’s GBH have expressed an intent to hold early  
 18 hearings about the sufficiency and admissibility of plaintiffs’ scientific evidence regarding  
 19 general causation. *See* Tentative Ruling on Motion for Scheduling Order Regarding General  
 20 Causation, *Huerta v. Monsanto Co.*, No. RIC 1600639 (Cal. Super. Ct., Riverside Cty. Sept. 8,  
 21 2016) (Hollingsworth Decl., Ex. 2) (tentatively ruling that “bifurcation of discovery and limiting  
 22 the first phase of discovery to the issue of general causation is warranted as it may prevent the  
 23 parties from engaging in broad and potentially wasteful discovery if defendants were to prevail  
 24 on a dispositive *Sargon* motion in limine”); Hearing Transcript at 9-10, *Huerta v. Monsanto Co.*,  
 25 No. RIC 1600639 (Cal. Super. Ct., Riverside Cty. Sept. 8, 2016) (Hollingsworth Decl., Ex. 3)  
 26 (affirming tentative ruling granting bifurcation, noting that if plaintiffs’ experts are excluded,  
 27 “the parties will have saved themselves a lot of unnecessary discovery moving forward to a  
 28 general trial date,” and if the case survives, “it doesn’t really set anyone back . . . [because] [t]his  
 is all discovery that has to be done, in any event”); Case Management Order No. 2 and Order  
 Discharging Order to Show Cause Why Sanctions Should Not be Imposed on Plaintiffs’ Counsel  
 at 1-2, *Johnson v. Monsanto Co.*, Case No. CGC-16-550128 (Cal. Super. Ct., S.F. Cty. Sept. 28,  
 2016) (Hollingsworth Decl., Ex. 4) (directing parties to address at the next case management  
 conference whether there is any impediment to holding “a prompt *Sargon* hearing regarding  
 general causation, to be preceded by expert discovery on that issue”). Two other state courts  
 have denied bifurcation via one-sentence orders, without providing any analysis or reasoning for  
 doing so. *See Kennedy v. Monsanto Co.*, No. 16CM-CC00001 (Mo. Cir. Ct. Camden Cty. June  
 27, 2016); Order, *Schrack v. Monsanto Co.*, Case No. 0812 (Pa. Ct. C.P. Phila. Cty. Sept. 2,  
 2016).

1 Order Regarding General Causation, *Hardeman v. Monsanto Co.*, No.: 3:16-cv-00525-VC (N.D. Cal.  
2 May 3, 2016), ECF No. 49-3);<sup>7</sup> Pretrial Order No. 21: General Causation Expert Discovery and  
3 Related Motion Practice Regarding Celebrex, *In re Bextra & Celebrex Mktg. Sales Practices &*  
4 *Prod. Liab. Litig.*, No. 3:05-md-01699-CRB (N.D. Cal. Mar. 16, 2007) (Breyer, J.), ECF No.  
5 1098 (ordering phased discovery schedule with initial phase addressing general causation) (Ex. 6  
6 to Declaration of Joe G. Hollingsworth in Support of Monsanto Company’s Motion for Scheduling  
7 Order Regarding General Causation, *Hardeman v. Monsanto Co.*, No.: 3:16-cv-00525-VC (N.D. Cal.  
8 May 3, 2016), ECF No. 49-6).

9 This sequencing has proven to be an effective and efficient path to the early consideration  
10 and, in some cases, resolution of potentially dispositive issues in complex products liability MDLs.  
11 *See, e.g., In re Viagra Prods. Liab. Litig.*, 658 F. Supp. 2d 950, 968 (D. Minn. 2009) (granting  
12 summary judgment in bifurcated proceedings after simultaneously-issued order excluded  
13 plaintiffs’ sole remaining general causation expert and noting “[t]hat decision effectively ended  
14 the current litigation, because . . . absent an admissible general causation opinion, Plaintiffs’  
15 claims necessarily fail”); *In re Zoloft (Sertralinehydrochloride) Prods. Liab. Litig.*, No. 12-MD-  
16 2342, 2016 WL 1320799, at \*5, 11 (E.D. Pa. Apr. 5, 2016) (granting summary judgment in favor  
17 of defendant Pfizer in all MDL actions after finding plaintiffs failed to present admissible expert  
18 testimony with respect to general causation); *In re Bextra & Celebrex Mktg. Sales Practices &*  
19 *Prods. Liab. Litig.*, 524 F. Supp. 2d 1166, 1184 (N.D. Cal. 2007) (Breyer, J.) (granting summary  
20 judgment after phased discovery for all plaintiffs who claimed heart attacks or strokes from

21 \_\_\_\_\_  
22 <sup>7</sup> In briefing regarding bifurcation before the creation of this MDL, some plaintiffs’ counsel cited  
23 *In re Incretin Mimetics Prods. Liab. Litig.* as an example of the alleged inefficiencies of  
24 bifurcated discovery. In that litigation, the court bifurcated discovery to allow general causation  
25 to proceed first, then later expanded the boundaries of that discovery to include information  
26 relevant to the issue of preemption. Despite this small expansion of discovery, it is clear that the  
27 phased approach succeeded in allowing the court to resolve a key issue in the MDL without  
28 engaging in other unnecessary, wasteful discovery that would have occurred in an entirely un-  
phased proceeding. *See In re Incretin Mimetics Prods. Liab. Litig.*, No. 13-md-2452 AJB  
(MDD), 2014 WL 2532315, at \*2-3 (S.D. Cal. June 5, 2014) (expanding scope of first discovery  
phase); *In re Incretin-Based Therapies Prods. Liab. Litig.*, 142 F. Supp. 3d 1108, 1132 (S.D. Cal.  
Nov. 9, 2015) (granting summary judgment based on federal preemption, following discovery  
limited to the dispositive issues of general causation and federal preemption).



1 exposure to 200 mg/d dose or less because no admissible expert testimony supported that general  
2 causation claim); *In re Human Tissue Prods. Liab. Litig.*, 582 F. Supp. 2d 644, 652, 692 (D.N.J.  
3 2008) (granting summary judgment after “Science First” motions regarding plaintiffs who lacked  
4 admissible expert testimony that their alleged exposures were capable of causing the alleged  
5 diseases, including cancer). There is no reason to wait or engage in unneeded discovery before  
6 addressing general causation.<sup>8</sup>

7 The Order states that additional arguments will be heard from newly involved parties at  
8 the upcoming case management conference. Order at 4. Both Andrus Wagstaff and the Miller  
9 Firm have been heard on bifurcation before this Court, and the oppositions to bifurcation filed by  
10 counsel in other cases prior to the creation of this MDL do not raise any arguments that are  
11 substantively different from those already rejected by this Court and the *Giglio* court. These  
12 similarities, as well as Monsanto’s prior arguments regarding the need for and efficiencies of  
13 bifurcation, support maintaining the current plan for sequenced general causation discovery and  
14 an early *Daubert* hearing on that issue.

15 **II. MONSANTO’S PROPOSED SCHEDULE ADHERES CLOSELY TO THAT**  
16 **ORIGINALLY ENTERED IN *HARDEMAN AND STEVICK*.**

17 Although the creation of an MDL has added to the number of cases and counsel before  
18 this Court, meeting the goals of efficient general causation discovery and an early *Daubert*  
19 hearing remain eminently possible. As discussed above, continuing to proceed on that basis is

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20 <sup>8</sup> Other non-bifurcated MDLs also have issued *Daubert* rulings impacting large groups of cases  
21 based on plaintiffs’ inability to establish general causation, but often on a much longer timeline  
22 (and after the expenditure of more resources by the parties and the court) than contemplated in  
23 Monsanto’s proposed schedule here, *see infra* Part II, and in this Court’s Scheduling Order in  
24 *Hardeman/Stevick*. *See, e.g., In re Denture Cream Prods. Liab. Litig.*, No. 1:09-md-02051, 2015  
25 U.S. Dist. LEXIS 9653, at \*142 (S.D. Fla. Jan. 28, 2015) (excluding plaintiffs general causation  
26 experts); Joint Stipulation That the Court’s January 28, 2015 Order is Case-Dispositive, and  
27 Defendants’ Unopposed Motion for Judgment of Dismissal With Prejudice and for Entry of Final  
28 Judgment at 1-2, *In re Denture Cream Prods. Liab. Litig.*, No. 1:09-md-02051 (S.D. Fla. Mar.  
28, 2015), ECF No. 2310 (entering final judgment in favor of defendant in light of exclusion of  
plaintiffs’ general causation experts, applicable to all MDL cases except eight filed after expert  
disclosure cutoff date); *In re Mirena IUD Prods. Liab. Litig.*, Nos. 13-MD-2434 (CS), 13-MC-  
2434 (CS), 2016 WL 4059224, at \*17-18 (S.D.N.Y. July 28, 2016) (entering summary judgment  
in favor of defendants and disposing of all pending cases in the MDL, after excluding all of  
plaintiffs’ general causation experts under *Daubert*), *appeal docketed*, Nos. 16-2890 & 16-3012  
(2d Cir. Aug. 19, 2016).

1 consistent with the Federal Rules of Civil Procedure, significant precedent (including in MDLs)  
2 and this Court's prior order recognizing the efficiencies and benefits of such an approach.

3 Assuming discovery will be bifurcated to prioritize general causation, Monsanto suggests  
4 the following schedule pursuant to section 8.iii of the Order. This schedule is consistent with the  
5 prior *Hardeman/Stevick* schedule and ensures that *Daubert*-related evidentiary hearings and oral  
6 argument still will occur in 2017.

7 **Proposed Schedule for Remaining General Causation Discovery:**

- 8 • Document availability for counsel with cases not previously involved in active  
9 discovery: **Upon entry of protective order.**

10 Prior to creation of the MDL, this Court in *Hardeman* and the *Giglio* court entered  
11 substantively identical protective orders and other discovery-related protocols regarding  
12 electronically stored information ("ESI") and privilege issues.<sup>9</sup> These orders were negotiated  
13 between Monsanto's counsel and Andrus Wagstaff. Further, plaintiffs' counsel Weitz &  
14 Luxenberg has agreed to be bound by an identical protective order in order to receive access to  
15 Monsanto's document production. Similar orders were previously negotiated with the Miller  
16 Firm (and subsequently entered in *Stevick*).<sup>10</sup>

17  
18  
19 <sup>9</sup> See Protective and Confidentiality Order, *Hardeman v. Monsanto Co.*, No. 3:16-cv-00525-VC  
20 (N.D. Cal. June 24, 2016), ECF No. 75; Protective and Confidentiality Order, *Giglio v.*  
21 *Monsanto Co.*, No. 3:15-cv-02279-BTM-WVG (S.D. Cal. June 21, 2016), ECF No. 46; Order  
22 Governing Privilege Logs, *Hardeman v. Monsanto Co.*, No. 3:16-cv-00525-VC (N.D. Cal. June  
23 23, 2016), ECF No. 72; Order Governing Privilege Logs, *Giglio v. Monsanto Co.*, No. 3:15-cv-  
24 02279-BTM-WVG (S.D. Cal. June 21, 2016), ECF No. 48; Joint Stipulation and Order  
25 Governing Protocol for Discovery of Electronically Stored Information, *Hardeman v. Monsanto*  
26 *Co.*, No. 3:16-cv-00525-VC (N.D. Cal. June 23, 2016), ECF No. 73; Stipulation and Order  
27 Governing Protocol for Discovery of Electronically Stored Information, *Giglio v. Monsanto Co.*,  
28 No. 3:15-cv-02279-BTM-WVG (S.D. Cal. June 21, 2016), ECF No. 49; Rule 502(d) Order,  
*Hardeman v. Monsanto Co.*, No. 3:16-cv-00525-VC (N.D. Cal. June 24, 2016), ECF No. 76;  
Rule 502(d) Order, *Giglio v. Monsanto Co.*, No. 3:15-cv-02279-BTM-WVG (S.D. Cal. June 21,  
2016), ECF No. 47.

<sup>10</sup> Protective and Confidentiality Order, *Stevick v. Monsanto Co.*, No. 3:16-cv-02341-VC (N.D.  
Cal. June 24, 2016), ECF No. 27; Stipulation and Order Governing Privilege Logs, *Stevick v.*  
*Monsanto Co.*, No. 3:16-cv-02341-VC (N.D. Cal. June 24, 2016), ECF No. 28; Stipulation and  
Order Governing Protocol for Discovery of Electronically Stored Information, *Stevick v.*  
*Monsanto Co.*, No. 3:16-cv-02341-VC (N.D. Cal. June 24, 2016), ECF No. 26; Rule 502(d)  
Order, *Stevick v. Monsanto Co.*, No. 3:16-cv-02341-VC (N.D. Cal. July 1, 2016), ECF No. 34.

1           Monsanto requests that this Court enter the same discovery-related orders that it entered  
2 in *Hardeman* in all actions in this MDL so that they will govern the access to documents of  
3 counsel joining this litigation and continue to govern in cases where they have already been  
4 agreed to or entered and where millions of pages of documents have already been produced.  
5 Once these orders are entered, Monsanto will authorize plaintiffs' lead counsel (when appointed)  
6 to make all documents previously produced in federal cases available to all other plaintiffs'  
7 counsel in this MDL. Currently, the Miller Firm, Andrus Wagstaff, and Weitz & Luxenberg  
8 already share prior productions through a single document repository using a vendor originally  
9 retained by the Miller Firm.

- 10           • Proposed order regarding a deposition protocol and limits on written discovery  
11 requests due to Court by: **November 30, 2016.**

12           In MDLs, it is common for the parties to negotiate a protocol for the conduct of  
13 depositions. In fact, the Miller Firm previously sent Monsanto a draft protocol that could be  
14 used as the start for those negotiations. Once lead counsel for plaintiffs is appointed, Monsanto  
15 proposes that the parties undertake such negotiations with the goal of providing a joint proposed  
16 protocol for this Court's consideration and approval. To the extent there are issues on which the  
17 parties cannot agree, a joint letter submitting the dispute would be due on November 30, 2016.

18           Monsanto likewise proposes that the parties seek to negotiate reasonable limitations on  
19 written discovery. As noted above, Monsanto has already produced millions of pages of  
20 documents that include Monsanto's internal scientific studies and documents related to scientific  
21 studies and analyses conducted by outside experts on Monsanto's behalf, in addition to other  
22 custodial records (many of which were selected by plaintiffs). This production is reasonable and  
23 proportionate to plaintiffs' needs in seeking to meet their *Daubert* burden on general causation  
24 and is consistent with the amended Federal Rules of Civil Procedure. *See In re Bard IVC Filters*  
25 *Prods. Liab. Litig.*, No. MDL 15-02641-PHX DGC, 2016 WL 4943393, at \*5 (D. Ariz. Sept. 16,  
26 2016) (citing proportionality in denying plaintiffs' request for additional discovery, where  
27 significant electronic discovery on the subject of plaintiffs' proposed expanded discovery had  
28 already been conducted); *In re Benicar (Olmestartan) Prods. Liab. Litig.*, No. 15-2606 (RBK/JS),

1 2016 U.S. Dist. LEXIS 137839, at \*211-15 (D.N.J. Oct. 4, 2016) (citing proportionality  
2 requirement of amended Rule 26(b)(1) in denying plaintiffs' motion to compel depositions as  
3 redundant based on extensive discovery already conducted in phased discovery limited to  
4 question of causation). Should disputes arise, November 30, 2016 would be the deadline for  
5 presenting them to the Court as well.

- 6 • Identification of 10 additional current or former employee witnesses as custodians  
7 for document production by: **December 2, 2016**. Presentation of any objections  
8 by: **December 9, 2016**.

9 Prior to the creation of this MDL, Monsanto volunteered to produce documents for the  
10 five Monsanto employees most relevant to the question of general causation and to produce those  
11 witnesses for deposition. Monsanto further agreed to produce documents for seven corporate  
12 employees jointly requested by the Miller Firm and Andrus Wagstaff as general causation  
13 custodians. Monsanto also agreed to schedule depositions for five of those seven individuals  
14 even though some have no first-hand information relevant to general causation, and objected to  
15 the depositions of the remaining two based on a lack of relevant knowledge and their executive  
16 status within the company. On September 16, just a few weeks before the October 15, 2016  
17 production deadline, Andrus Wagstaff requested that Monsanto collect documents from 11  
18 additional custodians without any explanation of these custodians' purported relevance to the  
19 general causation question. Monsanto objected to these requests.

20 Plaintiffs' motion and the Panel's decision to create this MDL have introduced multiple  
21 new parties and counsel into this process, including many cases that were either not served on  
22 Monsanto or were far from the discovery stage at the time of transfer. This expansion requires  
23 changes to the discovery plan originally crafted with just two sets of plaintiffs' counsel, as new  
24 counsel will undoubtedly want to participate in the selection of any additional general causation  
25 document custodians and general causation deponents. Reasonable limits must be put in place to  
26 prevent plaintiffs from abusing this process and to ensure that the goals of efficient, proportional  
27 discovery and an early *Daubert* hearing are met.

28

1           There simply are not dozens of corporate witnesses with relevant personal knowledge of  
2 the general causation issues. Therefore, plaintiffs as a group should be limited to selecting no  
3 more than 10 additional general causation document custodians by December 2, by which date  
4 all new plaintiffs' counsel will have had access to the already-completed document production  
5 for a sufficient time to inform their designation of additional custodians (assuming the discovery  
6 orders discussed above are entered promptly). Monsanto would have an opportunity to object to  
7 the 10 additional custodians by December 9, 2016, if necessary. These deadlines will ensure that  
8 additional custodians are identified and objections resolved in a timely manner that does not  
9 derail the remainder of the discovery schedule.

10           The 10 custodians in Monsanto's proposal would be in addition to the five already  
11 offered voluntarily by Monsanto plus the seven previously requested by two plaintiffs' counsel,  
12 bringing the total to 22 general causation document custodians. Plaintiffs' counsel as a group  
13 can decide whether to include in the ten selected any custodians identified in Andrus Wagstaff's  
14 prior untimely request.

- 15           •       Deadline for plaintiffs (as a single group) to depose any or all of the five general  
16                    causation witnesses selected by Monsanto: **December 16, 2016**

17           Under the *Hardeman/Steivick* schedule, all non-expert witness depositions were to be  
18 completed by December 9, 2016. On September 8, 2016, three months in advance of that  
19 deadline, Monsanto offered plaintiffs' counsel in *Hardeman* and *Steivick* dates for the depositions  
20 of the five general causation custodians selected by Monsanto. *See* E-mails between Rosemary  
21 Stewart, Hollingsworth LLP, and Aimee Wagstaff, Andrus Wagstaff (Sept. 8-26, 2016)  
22 (Hollingsworth Decl., Ex. 5). Plaintiffs' counsel rejected those dates on September 15, 2016. *Id.*  
23 Plaintiffs' counsel requested alternative, presumably later dates, citing the need for more time to  
24 receive and review documents produced by Monsanto. *Id.* On September 26, 2016, Monsanto  
25 offered plaintiffs' counsel a second set of dates on which the witnesses were available in  
26 November or early December. *Id.* Despite being notified on September 30, 2016, that the  
27 production of documents for these custodians was substantially complete, plaintiffs' counsel in  
28 offered no response until October 13, 2016, when they claimed that depositions could not

1 proceed because they decided to request that additional search terms be used by Monsanto in  
2 culling the document collection. These efforts to derail efficient, proportional discovery should  
3 not be accommodated. There is no reason for further delay of these depositions. If plaintiffs  
4 wish to depose any of these individuals, they should be required to do so by December 16, 2016.

- 5 • Production of custodial files of no more than 10 additional general causation  
6 custodians selected by plaintiffs (subject to any objections) completed by:  
7 **February 3, 2017.**
- 8 • Deadline for plaintiffs (as a single group) to identify remaining general causation  
9 witnesses to be deposed (for no more than 10 total general causation depositions):  
10 **February 17, 2017.** Presentation of any objections by: **February 24, 2017.**

11 For the reasons discussed above, plaintiffs should be limited to taking no more than 10  
12 general causation fact witness depositions of current or former Monsanto employees. The  
13 number of deponents to be selected by this deadline will vary depending upon whether plaintiffs  
14 choose to depose any or all of the five custodians identified by Monsanto. To ensure that  
15 depositions can be completed in a timely manner, Monsanto proposes that plaintiffs select the  
16 remaining witnesses for deposition from among the remaining document custodians, subject to  
17 objection by Monsanto, by the above dates. Plaintiffs can, should they so choose, request  
18 depositions prior to this deadline.

- 19 • Depositions of remaining non-expert general causation witnesses to be completed  
20 by: **March 17, 2017.**
- 21 • Plaintiffs' expert reports due by: **April 17, 2017.**<sup>11</sup>
- 22 • Defendant's expert reports due by: **May 1, 2017.**
- 23 • Plaintiffs' rebuttal expert reports due by: **May 15, 2017.**
- 24 • Close of expert discovery: **June 7, 2017.**

25  
26  
27 <sup>11</sup> From this deadline forward, the "stagger" proposed by Monsanto between events is identical  
28 to that in the Court's scheduling order for *Hardeman/Stevick*, with small modifications to avoid  
deadlines on holidays and weekends.



- 1 • Monsanto’s motion for summary judgment and *Daubert* motions due (one brief,  
2 40 pages): **June 21, 2017.**
- 3 • Oppositions (and cross motion, if any) due (one consolidated brief for all  
4 plaintiffs, 40 pages total): **July 12, 2017.**
- 5 • Monsanto’s reply (and opposition to cross motions, if any) due (one consolidated  
6 brief, 50 pages): **July 26, 2017.**
- 7 • Replies due (one consolidated brief for all plaintiffs, 30 pages): **August 4, 2017.**
- 8 • Possible live testimony from expert witnesses: **Week of August 14, 2017.**
- 9 • Oral argument on motions for summary judgment and *Daubert* motions: **August**  
10 **17, 2017.**

11 **III. MONSANTO DOES NOT BELIEVE AN INDEPENDENT EXPERT IS NEEDED**  
12 **OR WOULD BE HELPFUL BECAUSE NUMEROUS INDEPENDENT**  
13 **SCIENTISTS, INCLUDING EPA, HAVE ALREADY PERFORMED THIS**  
14 **FUNCTION.**

15 In response to the Court’s inquiry in section 8.iv of the Order, Monsanto does not believe  
16 that the appointment of an independent expert is necessary or appropriate in this case because the  
17 Court already has access to extensive, independent expert analyses of the scientific evidence at  
18 issue here through two very recent evaluations of glyphosate’s carcinogenic potential conducted  
19 by EPA scientists (discussed below), as well as analyses by other regulatory and health agencies  
20 around the world. All such independent analyses concluded that glyphosate does not pose a risk  
21 for cancer in humans. The EPA analyses discuss all of the relevant scientific evidence that will  
22 be presented to the Court in these cases and also provide specific guidance on the proper  
23 methodology for assessing this scientific evidence. With this independent expert guidance in  
24 place, the Court will be well prepared to consider the expert testimony presented by the parties’  
25 retained experts and to satisfy its gatekeeping responsibility under *Daubert* and Federal Rule  
26 Evidence 702 of ensuring that plaintiffs’ general causation expert witnesses satisfy the “exacting  
27 standards of reliability” set forth in *Daubert* and its progeny. *Weisgram v. Marley Co.*, 528 U.S.  
28 440, 455 (2000).

1 As discussed in Part I *supra*, on September 12, 2016, EPA's OPP issued a 227-page  
2 evaluation of glyphosate's carcinogenic potential in which EPA concluded that "[t]he strongest  
3 support is for [the descriptor] 'not likely to be carcinogenic to humans' at doses relevant to  
4 human health risk assessment." EPA OPP Report at 13, 141.<sup>12</sup> In presenting this analysis, the  
5 EPA first provided detailed guidance on how scientists evaluate and assess epidemiological  
6 evidence, *id.* at 22-30, animal carcinogenicity studies, *id.* at 71-73, and genotoxicity studies, *id.*  
7 at 97-99, and next conducted a study-by-study evaluation of each of these three bodies of  
8 scientific evidence for glyphosate. *See id.* at 30-45 (epidemiological studies), 73-96 (animal  
9 carcinogenicity studies), and 99-126 (genotoxicity studies). Based upon this scientific  
10 evaluation, the EPA OPP concluded:

11 An extensive database exists for evaluating the carcinogenic  
12 potential of glyphosate, including 23 epidemiological studies, 15  
13 animal carcinogenicity studies, and nearly 90 genotoxicity studies  
14 for the active ingredient glyphosate. These studies were evaluated  
15 for quality and results were analyzed across studies within each  
16 line of evidence . . . [, and] multiple lines of evidence [were  
17 evaluated] using such concepts as strength, consistency, dose  
18 response, temporal concordance and biological plausibility. ***The***  
19 ***available data at this time do no[t] support a carcinogenic***  
20 ***process for glyphosate.***

21 *Id.* at 140 (emphasis added).<sup>13</sup>

22 In issuing this OPP report, EPA also officially released an earlier 87-page report setting  
23 forth the independent findings of EPA's CARC, in which the 12 career EPA scientists on the  
24 CARC likewise endorsed EPA's existing classification of glyphosate as "not likely to be  
25

26 <sup>12</sup> The EPA OPP report was prepared in anticipation of the upcoming EPA Scientific Advisory  
27 Panel meeting on glyphosate's carcinogenic potential.

28 <sup>13</sup> This finding is particularly telling because EPA applies a protective, regulatory methodology  
in assessing causation that sets a lower burden of proof than that which plaintiffs must meet in  
this Court under *Daubert*. *See, e.g., Rider v. Sandoz Pharm. Corp.*, 295 F.3d 1194, 1201 (11th  
Cir. 2002) ("A regulatory agency such as the FDA may choose to err on the side of caution.  
Courts, however, are required by the *Daubert* trilogy to engage in an objective review of  
evidence to determine whether it has sufficient scientific basis to be considered reliable."); *see*  
*also Glastetter v. Novartis Pharm. Corp.*, 252 F.3d 986, 991 (8th Cir. 2001) (same). The fact  
that EPA concluded that glyphosate does not pose a risk for cancer under this more protective,  
regulatory standard starkly illustrates the huge gulf that exists between plaintiffs' expert case and  
the type of reliable scientific evidence required under *Daubert*.

1 carcinogenic to humans.” EPA CARC Final Report at 10, 77. Based upon its detailed analysis,  
2 the EPA CARC concluded:

- 3 • “[E]pidemiological studies in humans showed no association between glyphosate  
4 exposure and cancer of the following: oral cavity, esophagus, stomach, colon, rectum,  
5 colorectum, lung, pancreas, kidney, bladder, prostate, brain (gliomas), soft-tissue  
6 sarcoma, leukemia, or multiple myelomas,” and the “epidemiologic literature to date  
7 does not support a direct causal association” between glyphosate exposure and non-  
8 Hodgkin’s lymphoma. *Id.* at 8, 9.
- 9 • “[T]here was no evidence of carcinogenicity in the eleven carcinogenicity studies  
10 conducted in Sprague Dawley or Wistar rats and CD-1 mice. There were no  
11 treatment-related increases in the occurrence of any tumor type in either sex of either  
12 species.” *Id.* at 9.
- 13 • “[T]here is no concern for genotoxicity or mutagenicity. Glyphosate was no[t]  
14 mutagenic in bacterial reversion (Ames) assays or *in vitro* mammalian gene mutation  
15 assays. There is no convincing evidence that glyphosate induces micronuclei  
16 formation or chromosomal aberrations *in vitro* or *in vivo*.” *Id.*

17 The EPA CARC report also provides the Court with an independent expert critique of the  
18 flawed analysis in the IARC monograph, upon which plaintiffs principally rely in support of  
19 their general causation argument. The EPA CARC explains that IARC failed to consider key  
20 scientific data showing non-carcinogenicity in the select animal studies upon which IARC relied  
21 and ignored other animal studies altogether. *Id.* at 9. The EPA CARC noted that IARC’s  
22 “omission of the negative findings from reliable studies may have had a significant bearing on  
23 the conclusion drawn for evidence of carcinogenicity in animals.” *Id.* The EPA CARC also  
24 sharply criticized IARC’s cherry-picked and unreliable analysis of genotoxicity studies, stating  
25 that “[t]he inclusion of the positive findings from studies with known limitations, the lack of  
26 reproducible positive findings and the omission of the negative findings from reliable studies  
27 may have had a significant bearing on IARC’s conclusion on the genotoxic potential of  
28 glyphosate.” *Id.* at 10.

The EPA’s OPP and CARC reports mirror similar findings in 2015-2016 by the European  
Food Safety Authority (“EFSA”), the Health Canada Pest Management Regulatory Agency, the  
German Federal Institute for Risk Assessment (“BfR”), the Australian Pesticides and Veterinary  
Medicines Authority, the New Zealand Environmental Protection Authority, and the World

1 Health Organization (“WHO”) and United Nations Food and Agricultural Organization – which  
2 all very recently concluded that glyphosate is not carcinogenic, in direct contravention of the  
3 IARC’s 2015 classification of glyphosate as a 2A probable human carcinogen.<sup>14</sup> And even the  
4 IARC’s 2A classification – deeply flawed as it is – does not support plaintiffs’ causation case  
5 under *Daubert* because IARC conceded (even under its methodology) that the epidemiological  
6 studies provide only “limited evidence in humans for the carcinogenicity of glyphosate,” which  
7 IARC defines as meaning that “chance, bias, or confounding could not be ruled out with  
8 reasonable confidence.” IARC, *Preamble to the IARC Monograph: Scientific Review and*  
9 *Evaluation* available at <http://monographs.iarc.fr/ENG/Preamble/currentb6evalrationale>  
10 [0706.php](http://monographs.iarc.fr/ENG/Preamble/currentb6evalrationale).; see *General Electric Co. v. Joiner*, 522 U.S. 136, 145-47 (1997) (affirming district  
11 court exclusion of expert testimony based upon epidemiological studies that failed to rule out  
12 chance or confounding); see also *Conde v. Velsicol Chem. Corp.*, 24 F.3d 809, 813-14 (6th Cir.  
13 1994) (rejecting plaintiffs’ expert’s causation opinion, which relied on a regulatory finding that  
14 chlordane is a probable human carcinogen based on animal studies, where epidemiological  
15 studies did not establish an association); *Hollander v. Sandoz Pharm. Corp.*, 95 F. Supp. 2d  
16 1230, 1235, n.14 (W.D. Okla. 2000) (“In the absence of an understanding of the biological and  
17 pathological mechanisms by which disease develops, epidemiological evidence is the most valid  
18 type of scientific evidence of toxic causation”), *aff’d*, 289 F.3d 1193 (10th Cir. 2002).

19  
20  
21 <sup>14</sup> EFSA, *Conclusion on the Peer Review of the Pesticide Risk Assessment of the Active*  
22 *Substance Glyphosate* at 2, EFSA Journal 2015; 13(11):4302 (published Nov. 12, 2015),  
23 <http://www.efsa.europa.eu/en/efsajournal/pub/4302>; Letter from Bernhard Url, Exec. Director,  
24 EFSA, to Prof. Christopher J. Portier, Working Group Participant, IARC at 1 (Jan. 13, 2016),  
25 [https://www.efsa.europa.eu/sites/default/files/EFSA\\_response\\_Prof\\_Portier.pdf](https://www.efsa.europa.eu/sites/default/files/EFSA_response_Prof_Portier.pdf); Summary of the  
26 Pest Management Regulatory Agency Proposed Re-evaluation Decision at 15 (PRVD2015-01)  
27 (Apr. 13, 2015), [http://publications.gc.ca/collections/collection\\_2015/sc-hc/H113-27-2015-1-](http://publications.gc.ca/collections/collection_2015/sc-hc/H113-27-2015-1-eng.pdf)  
28 [eng.pdf](http://publications.gc.ca/collections/collection_2015/sc-hc/H113-27-2015-1-eng.pdf); BfR, *The BfR has finalised its draft report for the re-evaluation of glyphosate* (Apr. 2,  
2015), [http://www.bfr.bund.de/en/the\\_bfr\\_has\\_finalised\\_its\\_draft\\_report\\_for\\_the\\_re](http://www.bfr.bund.de/en/the_bfr_has_finalised_its_draft_report_for_the_re_evaluation_of_glyphosate-188632.html)  
[evaluation\\_of\\_glyphosate-188632.html](http://www.bfr.bund.de/en/the_bfr_has_finalised_its_draft_report_for_the_re_evaluation_of_glyphosate-188632.html) ; Food & Agric. Org. of the U.N., World Health Org.,  
Joint FAO/WHO Meeting on Pesticide Residues, Geneva, 9-13 May 2016, Summary Report at 2  
(issued May 16, 2016), <http://www.who.int/foodsafety/jmprsummary2016.pdf?ua=1>; see also  
*supra* p. 3 (citing conclusions of the Australian Pesticides and Veterinary Medicines Authority  
and the New Zealand Environmental Protection Authority).

1 This Court thus already has a wealth of independent scientific analyses to assist it in  
2 understanding the expert testimony that will be presented in these cases and the lack of scientific  
3 reliability of plaintiffs' expert case in support of general causation. Under these circumstances, the  
4 appointment of an additional independent expert would be redundant and is unnecessary.

5 **IV. OTHER MATTERS.**

6 Section 9 of this Court's Order directs the parties to address in their case management  
7 statement any other matters that they wish to discuss at the case management conference. In any  
8 MDL, in addition to the issues mentioned above and in the Court's Order, there are a variety of  
9 administrative constructs and procedures that need to be created, such as procedures for service  
10 of new actions, the filing of any case-specific motions, protocols for preservation depositions,  
11 among others. Monsanto suggests that this Court's scheduling order include provisions for the  
12 submission of a second proposed CMO setting forth the parties' respective or agreed positions  
13 regarding these and other issues within 60 days after lead plaintiffs' counsel is appointed.

14 This Order also requests a list of all known similar cases pending in federal or state  
15 courts. Monsanto's list is attached hereto as Attachment A.

16  
17 DATED: October 20, 2016

Respectfully submitted,

/s/ Joe G. Hollingsworth

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**ATTACHMENT A**

**I. CASES CURRENTLY INCLUDED IN MDL NO. 2741**

*Abila v. Monsanto Co.*, No. 3:16-cv-06008-VC (N.D. Cal.)  
*Bridgeman v. Monsanto Co.*, No. 3:16-cv-05785-VC (N.D. Cal.)  
*Burdett v. Monsanto Co.*, No. 3:16-cv-06027-VC (N.D. Cal.)  
*Carlock v. Monsanto Co.*, No. 3:16-cv-06009-VC (N.D. Cal.)  
*Couey v. Monsanto Co.*, No. 3:16-cv-05653-VC (N.D. Cal.)  
*Cushman v. Monsanto Co.*, No. 3:16-cv-06018-VC (N.D. Cal.)  
*Domina v. Monsanto Co.*, No. 3:16-cv-05887-VC (N.D. Cal.)  
*Ford v. Monsanto Co.*, No. 3:16-cv-06030-VC (N.D. Cal.)  
*Gibbs v. Monsanto Co.*, No. 3:16-cv-05652-VC (N.D. Cal.)  
*Giglio v. Monsanto Co.*, No. 3:16-cv-05658-VC (N.D. Cal.)  
*Goodbred v. Monsanto Co.*, No. 3:16-cv-06010-VC (N.D. Cal.)  
*Hardeman v. Monsanto Co.*, No. 3:16-cv-00525-VC (N.D. Cal.)  
*Harris v. Monsanto Co.*, No. 3:16-cv-00525-VC (N.D. Cal.)  
*Hernandez v. Monsanto Co.*, No. 3:16-cv-05750-VC (N.D. Cal.)  
*Janise v. Monsanto Co.*, No. 3:16-cv-06004-VC (N.D. Cal.)  
*Johansing v. Monsanto Co.*, No. 3:16-cv-05751-VC (N.D. Cal.)  
*Johnson v. Monsanto Co.*, No. 3:16-cv-06043-VC (N.D. Cal.)  
*Mancuso v. Monsanto Co.*, No. 3:16-cv-06047-VC (N.D. Cal.)  
*McCall v. Monsanto Co.*, No. 3:16-cv-05749-VC (N.D. Cal.)  
*Means v. Monsanto Co.*, No. 3:16-cv-05753-VC (N.D. Cal.)  
*Mendoza v. Monsanto Co.*, No. 3:16-cv-06046-VC (N.D. Cal.)  
*Morris v. Monsanto Co.*, No. 3:16-cv-06029-VC (N.D. Cal.)  
*Patterson v. Monsanto Co.*, No. 3:16-cv-05787-VC (N.D. Cal.)  
*Perkins v. Monsanto Co.*, No. 3:16-cv-06025-VC (N.D. Cal.)  
*Porath v. Monsanto Co.*, No. 3:16-cv-05858-VC (N.D. Cal.)  
*Ricci v. Monsanto Co.*, No. 3:16-cv-06019-VC (N.D. Cal.)  
*Ruiz v. Monsanto Co.*, No. 3:16-cv-05659-VC (N.D. Cal.)  
*Russo v. Monsanto Co.*, No. 3:16-cv-06024-VC (N.D. Cal.)  
*Sanders v. Monsanto Co.*, No. 3:16-cv-05752-VC (N.D. Cal.)  
*Scheffer v. Monsanto Co.*, No. 3:16-cv-05660-VC (N.D. Cal.)  
*Sheppard v. Monsanto Co.*, No. 3:16-cv-05650-VC (N.D. Cal.)  
*Stevick v. Monsanto Co.*, No. 3:16-cv-02341-VC (N.D. Cal.)  
*Tamburello v. Monsanto Co.*, No. 3:16-cv-06007-VC (N.D. Cal.)  
*Trimpe v. Monsanto Co.*, No. 3:16-cv-06032-VC (N.D. Cal.)  
*Turner v. Monsanto Co.*, No. 3:16-cv-06020-VC (N.D. Cal.)  
*Walker v. Monsanto Co.*, No. 3:16-cv-06028-VC (N.D. Cal.)  
*White v. Monsanto Co.*, No. 3:16-cv-06026-VC (N.D. Cal.)  
*Work v. Ragan and Massey, Inc. et al.*, No. 3:16-cv-06005-VC (N.D. Cal.)



**II. CASES NOT YET NOTICED AS “TAG-ALONGS” OR TRANSFERRED TO THE MDL**

*Gebeyehou v. Monsanto Co.*, No. 3:16-cv-05813-EDL (N.D. Cal.)  
*Harris v. Monsanto Co.*, No. 3:16-cv-02275-LAB-RBB (S.D. Cal.)  
*Penrod v. Monsanto Co.*, No. 3:16-cv-05901-JCS (N.D. Cal.)

**III. STATE COURT CASES**

*Ashworth v. Monsanto Co.*, No. N16C-02-242 VLM (Del. Super. Ct.)  
*Barrera v. Monsanto Co.*, No. N15C-10-118 VLM (Del. Super. Ct.)  
*Carr v. Monsanto Co.*, No. N16C-03-159 VLM (Del. Super. Ct.)  
*Huerta v. Monsanto Co.*, No. RIC 1600639 (Cal. Super. Ct., Riverside Cty.)  
*Johnson v. Monsanto Co.*, No. CGC-16-550128 (Cal. Super. Ct., S.F. Cty.)  
*Kane v. Monsanto Co.*, No. 1622-CC10172 (Mo. Cir. Ct. St. Louis)  
*Kennedy v. Monsanto Co.*, No. 16CM-CC00001 (Mo. Cir. Ct. Camden Cty.)  
*Panthen v. Monsanto Co.*, No. N16C-04-037 VLM (Del. Super Ct.)  
*Peterson v. Monsanto Co.*, No. 1622-CC01071 (Mo. Cir. Ct. St. Louis)  
*Schrack v. FMC Corp. et al.*, No. 160400812 (Pa. Ct. C.P. Phila. Cty.)

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**MONSANTO COMPANY**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN RE: ROUNDUP PRODUCTS  
LIABILITY LITIGATION

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

This document relates to:  
ALL ACTIONS

**DECLARATION OF JOE G. HOLLINGSWORTH IN SUPPORT OF  
MONSANTO COMPANY'S CASE MANAGEMENT STATEMENT**

I, Joe G. Hollingsworth, hereby declare as follows:

1. I am an attorney at law and am a member of the law firm of Hollingsworth LLP, counsel for defendant Monsanto Company ("Monsanto"). I make this declaration in support of Monsanto's Case Management Statement. I make this declaration based on my personal knowledge and, if called as a witness, I would and could testify competently to these matters.

2. Annexed hereto as Exhibit 1 is a true and correct copy of e-mails between Timothy Litzenburg, The Miller Firm, and Kristen Melen, Courtroom Deputy to the Honorable Vince Chhabria (June 21, 2016).

3. Annexed hereto as Exhibit 2 is a true and correct copy of Tentative Ruling on Motion for Scheduling Order Regarding General Causation, *Huerta v. Monsanto Co.*, No. RIC 1600639 (Cal. Super. Ct., Riverside Cty. Sept. 8, 2016).

4. Annexed hereto as Exhibit 3 is a true and correct copy of Hearing Transcript, *Huerta v. Monsanto Co.*, No. RIC 1600639 (Cal. Super. Ct., Riverside Cty. Sept. 8, 2016).

1           5.       Annexed hereto as Exhibit 4 is a true and correct copy of Case Management  
2 Order No. 2 and Order Discharging Order to Show Cause Why Sanctions Should Not be  
3 Imposed on Plaintiffs' Counsel, *Johnson v. Monsanto Co.*, Case No. CGC-16-550128 (Cal.  
4 Super. Ct. S.F. Cty. Sept. 28, 2016).

5           6.       Annexed hereto as Exhibit 5 is a true and correct copy of e-mails between  
6 Rosemary Stewart, Hollingsworth LLP, and Aimee Wagstaff, Andrus Wagstaff (Sept. 8-26,  
7 2016).

8           I hereby declare under penalty of perjury that the facts set forth herein are true and  
9 correct. Executed this 20th day of October, 2016.

10  
11                               /s/ Joe G. Hollingsworth  
12                               Joe G. Hollingsworth (*pro hac vice*)  
13                               (jhollingsworth@hollingsworthllp.com)  
14                               HOLLINGSWORTH LLP  
15                               1350 I Street, N.W.  
16                               Washington, DC 20005  
17                               Telephone: (202) 898-5800  
18                               Facsimile: (202) 682-1639  
19  
20                               Attorneys for Defendant  
21                               MONSANTO COMPANY  
22  
23  
24  
25  
26  
27  
28

# **Exhibit 1**

**Sullivan, James**

---

**From:** VCCRD@cand.uscourts.gov  
**Sent:** Tuesday, June 21, 2016 4:25 PM  
**To:** Timothy Litzenburg  
**Cc:** 'aimee.wagstaff@andruswagstaff.com'; 'cghoke@gmail.com'; Haake, Christopher; 'david.wool@andruswagstaff.com'; Lasker, Eric; Sullivan, James; 'kathryn.forgie@andruswagstaff.com'; 'lori@andrusanderson.com'; Michael Miller; 'rbwisner@baumhedlundlaw.com'; Platt, Steve; 'vance.andrus@andruswagstaff.com'  
**Subject:** RE: Conference Call Information for CMC in Hardeman v. Monsanto Co., 3:16-cv-00525-VC and Stevick v. Monsanto Co., 3:16-cv-02341-VC

Good afternoon,

Thank you for providing this. I have passed the info. along to Judge Chhabria.

Thanks,  
Kristen Melen, Courtroom Deputy to the Honorable Vince Chhabria

-----Timothy Litzenburg <TLitzenburg@MillerFirmLLC.com> wrote: -----

To: "'VCCRD@cand.uscourts.gov'" <VCCRD@cand.uscourts.gov>, "Haake, Christopher" <Chaake@Hollingsworthllp.com>

From: Timothy Litzenburg <TLitzenburg@MillerFirmLLC.com>

Date: 06/21/2016 12:12PM

Cc: "'aimee.wagstaff@andruswagstaff.com'" <aimee.wagstaff@andruswagstaff.com> ,

"'cghoke@gmail.com'" <cghoke@gmail.com>, "'david.wool@andruswagstaff.com'"

<david.wool@andruswagstaff.com>, "Lasker, Eric" <ELasker@Hollingsworthllp.com>, "Sullivan, James"

<JSullivan@Hollingsworthllp.com>, "'kathryn.forgie@andruswagstaff.com'"

<kathryn.forgie@andruswagstaff.com>, "'lori@andrusanderson.com'" <lori@andrusanderson.com> ,

"'rbwisner@baumhedlundlaw.com'" <rbwisner@baumhedlundlaw.com> ,

"'vance.andrus@andruswagstaff.com'" <vance.andrus@andruswagstaff.com> , "splatt@pmcos.com"

<splatt@pmcos.com>, Michael Miller <MMiller@millerfirmllc.com>

Subject: RE: Conference Call Information for CMC in Hardeman v. Monsanto Co., 3:16-cv-00525-VC and Stevick v. Monsanto Co., 3:16-cv-02341-VC

Ms. Melen

Thanks for your guidance. In advance of this afternoon's status conference, and in light of the Court's ruling last week, counsel for the individual Plaintiffs in the two matters have conferred and come up with a proposed schedule for bifurcation. We have provided to Defendant as well, but wanted the Court to have this proposal before it, to make the conference more productive (Defendant has already submitted its proposal as an exhibit to supplemental joint report). If there is another avenue through which I should provide this to Judge Chhabria, please let me know.

July 15 2016 – Monsanto completes non-custodial production and provides privilege log

August 1, 2016 – Monsanto begins custodial file production

October 15, 2016 – Monsanto completes custodial file production for the twelve persons agreed by the parties to date, PLUS five additional custodians to be identified by plaintiffs through review of early production; privilege logs produced

December 9, 2016 – depositions of custodians completed

January 9, 2016 – Plaintiff's and Defendants' expert reports on general causation

January 23, 2016 – Rebuttal expert reports due

March 1, 2016: Close of discovery of phase one

March 15, 2016 – Daubert/MSJ due

April 3, 2016: Oppositions due

April 10, 2016: Replies due

April 17, 2016: Daubert hearing

---

**From:** VCCRD@cand.uscourts.gov [mailto:VCCRD@cand.uscourts.gov]

**Sent:** Thursday, June 16, 2016 1:39 PM

**To:** Haake, Christopher

**Cc:** 'aimee.wagstaff@andruswagstaff.com'; 'cghoke@gmail.com'; 'david.wool@andruswagstaff.com'; Lasker, Eric; Sullivan, James; 'kathryn.forgie@andruswagstaff.com'; 'lori@andrusanderson.com'; 'rbwisner@baumhedlundlaw.com'; Timothy Litzenburg; 'vance.andrus@andruswagstaff.com'; splatt@pmcos.com

**Subject:** Re: Conference Call Information for CMC in Hardeman v. Monsanto Co., 3:16-cv-00525-VC and Stevick v. Monsanto Co., 3:16-cv-02341-VC

Good morning,

Thank you for providing this information.

Counsels, it appears that the parties filed the joint case management statements and included a series of stipulations and proposed orders to be filed and reviewed by the Court as attachments to the CMS. This is not how stipulations and proposed orders are to be filed. Anything the parties are stipulating to should be filed as individual documents and filed separately- not as a group of documents. The Court is requiring that you refile all of the stipulations and proposed orders individually and separate from the CMS. If anyone needs assistance on the proper way to file documents in ECF they should review the court's website for training on filing. [www.cand.uscourts.gov](http://www.cand.uscourts.gov)



For Tuesday's hearing, please note, the Court will join the call as soon as the matter is called. All parties must be on the line at 2:30 p.m. and ready to proceed. Should there be a delay in the Court joining the conference, please be patient and we will join just as soon as possible.

Counsels are asked not to speak over each other, not speak over the judge, and speak slowly and clearly. The CMC will not be reported or recorded. The Court will only issue a minute order after the hearing. To obtain direction regarding pretrial filings and trial management you must go to Judge Chhabria's webpage on the court's website and review his Standing Order Regarding Civil Trials. If the Court orders the parties to file a stipulation and proposed order, it will be due within one week if not specified due for a different time frame.

Thank you,

Kristen Melen, Courtroom Deputy to the Honorable Vince Chhabria

-----"Haake, Christopher" <[Chaake@Hollingsworthllp.com](mailto:Chaake@Hollingsworthllp.com)> wrote: -----

To: "vccrd@cand.uscourts.gov" <[vccrd@cand.uscourts.gov](mailto:vccrd@cand.uscourts.gov)>  
From: "Haake, Christopher" <[Chaake@Hollingsworthllp.com](mailto:Chaake@Hollingsworthllp.com)>  
Date: 06/15/2016 02:01PM  
Cc: "kathryn.forgie@andruswagstaff.com" <[kathryn.forgie@andruswagstaff.com](mailto:kathryn.forgie@andruswagstaff.com)>, "david.wool@andruswagstaff.com" <[david.wool@andruswagstaff.com](mailto:david.wool@andruswagstaff.com)>, "lori@andrusanderson.com" <[lori@andrusanderson.com](mailto:lori@andrusanderson.com)>, "vance.andrus@andruswagstaff.com" <[vance.andrus@andruswagstaff.com](mailto:vance.andrus@andruswagstaff.com)>, "aimee.wagstaff@andruswagstaff.com" <[aimee.wagstaff@andruswagstaff.com](mailto:aimee.wagstaff@andruswagstaff.com)>, "rbwisner@baumhedlundlaw.com" <[rbwisner@baumhedlundlaw.com](mailto:rbwisner@baumhedlundlaw.com)>, "tlitzenburg@millerfirmllc.com" <[tlitzenburg@millerfirmllc.com](mailto:tlitzenburg@millerfirmllc.com)>, "cghoke@gmail.com" <[cghoke@gmail.com](mailto:cghoke@gmail.com)>, "Sullivan, James" <[JSullivan@Hollingsworthllp.com](mailto:JSullivan@Hollingsworthllp.com)>, "Lasker, Eric" <[ELasker@Hollingsworthllp.com](mailto:ELasker@Hollingsworthllp.com)>  
Subject: Conference Call Information for CMC in *Hardeman v. Monsanto Co.*, 3:16-cv-00525-VC and *Stevick v. Monsanto Co.*, 3:16-cv-02341-VC

Hello,

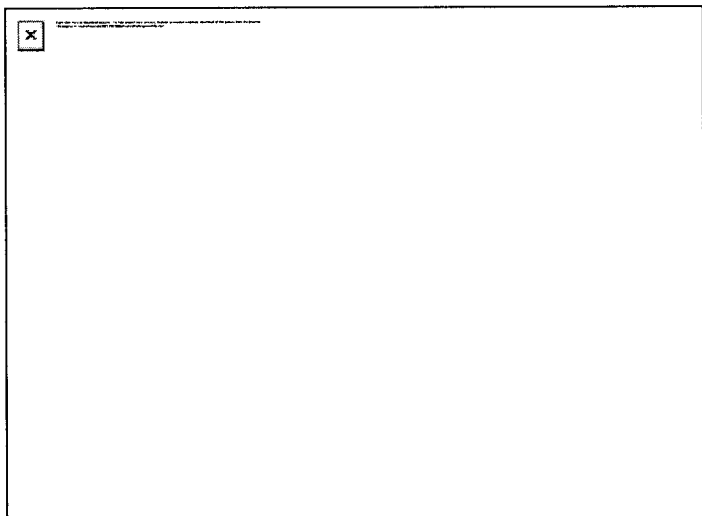
Per the Court's June 14 order, below please find conference call information for the Case Management Conference to be conducted by phone on June 21 in *Hardeman v. Monsanto Co.*, 3:16-cv-00525-VC and *Stevick v. Monsanto Co.*, 3:16-cv-02341-VC.

DATE: Tuesday, June 21, 2016

TIME: 2:30 p.m. PDT / 5:30 p.m. EDT

DIAL-IN: 800-423-1988

PASSCODE: 1673737



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# **Exhibit 2**

## Tentative Rulings for September 8, 2016 Department 10

**To request oral argument, you must notify Judicial Secretary Cameo M. Gallo at (760) 904-5722 and inform all other counsel no later than 4:30 p.m.**

This court follows California Rules of Court, Rule 3.1308 (a) (1) for tentative rulings (see Riverside Superior Court Local Rule 3316). Tentative Rulings for each law & motion matter are posted on the Internet by 3:00 p.m. on the court day immediately before the hearing at <http://www.riverside.courts.ca.gov/tentativerulings.shtml>. If you do not have Internet access, you may obtain the tentative ruling by telephone at (760) 904-5722.

To request oral argument, not later than 4:30 p.m. on the court day before the hearing you must (1) notify the judicial secretary for Department 10 at (760) 904-5722 and (2) inform all other parties. If no request for oral argument is made by 4:30 p.m., the tentative ruling **will become the final ruling** on the matter effective the date of the hearing.

Unless otherwise noted, the prevailing party is to give notice of the ruling.

1.

PSC1404079	ANNA JONES ET AL VS FITNESS ALLIANCE LLC	MOTION TO/FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT BY ANNA JONES, CHRISTOPHER GREEBE
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**Tentative Ruling:** Deny without prejudice.

As no new documents have been filed, the motion is denied without prejudice to plaintiffs filing a new motion for preliminary approval of class action settlement that addresses the Court's concerns discussed on June 7, 2016.

2.

RIC1600639	BRENDA HUERTA VS MONSANTO COMPANY SUPERIOR SOD	MOTION TO/FOR SCHEDULING ORDER REGARDING GENERAL CAUSATION AND MEMORANDUM OF POINTS & AUTHORITIES BY MONSANTO COMPANY, SUPERIOR SOD LLC, SUPERIOR SOD I LP
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**Tentative Ruling:** Grant.

Under CCP § 2019.020, the court has the authority to “establish the sequence and timing of discovery for the convenience of the parties and witnesses and in the interests of justice.” Furthermore, in cases designated “complex,” the court has power to establish a discovery schedule and schedule dates for dispositive motions. (CRC 3.750(b).) A “complex case” is an action that requires “exceptional judicial management to avoid placing unnecessary burdens on the court of the litigants and to expedite the case, keep costs reasonable, and promote effective decision making by the court, the parties and counsel.” (CRC 3.400(a); *First State Ins. Co. v. Sup. Ct. (Jalisco Corp., Inc.)* (2000) 79 Cal.App.4th 324, 332.) Management of discovery lies within the sound discretion of the trial court. (*In re Groundwater Cases* (2007) 154 Cal.App.4th

659, 693.) The Court is persuaded here that bifurcation of discovery and limiting the first phase of discovery to the issue of general causation is warranted as it may prevent the parties from engaging in broad and potentially wasteful discovery if defendants were to prevail on a dispositive *Sargon* motion in limine.

# **Exhibit 3**

1 RIVERSIDE, CALIFORNIA; SEPTEMBER 8, 2016

2 BEFORE THE HONORABLE SHARON J. WATERS

3 THE COURT: Huerta versus Monsanto.

4 MR. PLATT: Good morning, Your Honor. Steven Platt for  
5 defendants appearing on Court Call.

6 MR. CALHOUN: Good morning, Your Honor. Martin Calhoun  
7 for defendants on Court Call.

8 MR. LITZENBURG: Curtis Hoke and Timothy Litzenburg for  
9 the plaintiff appearing via Court Call.

10 THE COURT: I believe it was plaintiff that requested  
11 argument.

12 MR. LITZENBURG: Yes, Your Honor. And preliminarily,  
13 if I may, my name is Tim Litzenburg. And I had previously  
14 applied for admission pro hac vice in this case. I'm a bit  
15 confused and perhaps I bungled the procedure there. There  
16 was -- the motion was previously set for a status conference in  
17 July that was vacated. I was not aware that anything was done  
18 with the motion. But in checking with the clerk yesterday, she  
19 said that it appears to have been denied without prejudice. I  
20 was wondering if Your Honor could shed light on that and let me  
21 know what I need to do to cure that. And also if Your Honor  
22 would indulge me in allowing me to speak on this today, the  
23 subject. If not, Mr. Hoke is ready to do so.

24 THE COURT: So if you'll give me a moment, I can look  
25 for my -- what my tentative was before. I don't have it up  
26 here. It was set for hearing on July 7th, I believe.

27 MR. LITZENBURG: Yes, Your Honor.

28 THE COURT: Well, I don't know how helpful this is



1 going to be. My tentative says "the motion fails to conform to  
2 the following Rules of Court: Rule 2.108, 2.109, 2.110, 9.40,  
3 Subdivision C-1 and 6, and also does not contain a proper proof  
4 of service."

5 MR. LITZENBURG: I see. Well, I apologize for all of  
6 that, and we'll attempt to cure that immediately. And, again, I  
7 would -- I can represent that my admission is not opposed by the  
8 defendants. If you indulge me, allow me to address these  
9 issues, I'm little bit more current on them than Curtis Hoke,  
10 but, again, he's prepared to speak if not.

11 THE COURT: Since those were all issues that I imagine  
12 you will be able to correct, if the defense has no objection, I  
13 will allow you to make the argument today.

14 Do you have any objections?

15 MR. CALHOUN: This is Martin Calhoun for the  
16 defendants. Your Honor, we have no objection.

17 THE COURT: All right.

18 MR. LITZENBURG: Thank you, Your Honor. And thank you,  
19 Mr. Calhoun.

20 We are -- we read the tentative ruling, and I'll  
21 address only very briefly the substance of the motion. In a  
22 sense, Your Honor, for one, the toothpaste is out of the tube,  
23 so to speak. This precise motion has been granted by at least  
24 two federal judges, as I believe the defendant has pointed out.  
25 But it is also been denied unequivocally by two state judges in  
26 Missouri and in -- yesterday in the Philadelphia Court of Common  
27 Pleas.

28 The fallout from that, as Your Honor is probably aware,

1 this is a litigation of national scope, and there are cases  
2 pending all over the country, many of which are ours at the  
3 Miller firm. In terms of discovery, we are proceeding in a  
4 pretty orderly fashion without a lot kerfuffle with defense  
5 counsel.

6 But what the decisions shakeout to is we are already  
7 getting discovery on the liability issues, the things that  
8 Monsanto would ask Your Honor to preclude in this case. And so  
9 what a ruling granting bifurcation would amount to is sort of a  
10 bit of a Chinese wall. I'm not sure exactly how we go about it,  
11 but we'll be getting paper discovery -- we already are -- and  
12 proceeding on depositions in some of our cases on the general  
13 liability subject that the defendant is asking the Court to  
14 preclude for now.

15 I would also say that the -- the defendants argue that  
16 this is going to be -- going to save everybody time and effort  
17 and preserve judicial economy. And I would argue, Your Honor,  
18 this will do precisely the opposite. What is, in fact, going to  
19 happen is that we're going to take depositions this fall of key  
20 employees of Monsanto, scientists, executives, spokespeople, and  
21 if they are limited to the subject of general causation, which  
22 they may well be, then we'll have a hearing, an expert hearing  
23 to see if we can carry our burden there. And then we'll have to  
24 go back and take depositions of these folks again next year on  
25 subjects that don't arguably have to do with purely causation  
26 issues.

27 And I would say, Your Honor, that that is not a  
28 possibility of duplicative work, but a mere certainty. We put

1 this in our brief and I won't belabor it, but the fact that the  
2 plaintiffs have to carry the burden of causation in this case is  
3 no different than any other product liability case. It's no  
4 different than any personal injury case. I would say, in fact,  
5 here it's potentially stronger than a lot of toxic exposure  
6 cases in that the World Health Organization has decreed this  
7 agent to be probably human carcinogen. In other words, it has  
8 classified it as a chemical that can and does induce cancer in  
9 humans.

10 I think, you know, no surprise here, I guess, for us.  
11 But I think that we'll be able to pass expert challenges with  
12 ease. We have one on deck already. There is a multitude of  
13 published peer-reviewed epidemiology showing the link between  
14 this chemical and non-Hodgkin's lymphoma. And there are, of  
15 course, many core decisions that are reliable methods for  
16 experts to implement and reply upon in reaching general  
17 causation opinions.

18 I certainly don't want that hearing to happen today or  
19 tomorrow, but we'll be prepared and are confident we'll pass  
20 into the second phase. And then we'll be revisiting a lot of  
21 discovery, so I'll rest on that. But the -- this also has the  
22 potential for a lot more discovery disputes before Your Honor, I  
23 believe.

24 Because, you know, my opinion of what constitutes  
25 general causation materials is most likely a lot more -- a lot  
26 broader than what Monsanto's position will be. E-mails among  
27 executives of this company saying, Should we be worried about  
28 this? What do we do to counter this news? I can envision

1 Monsanto saying that is liability discussion. We're not going  
2 to get into that. And the latest position will be that they are  
3 talking about how to handle whether or not this causes cancer.

4 So, you know, if we are bifurcated and can't touch  
5 certain subjects now, I think there will be a lot of disputes  
6 about what is in which circle of the Venn Diagram, so to speak,  
7 Your Honor.

8 I'll rest on my argument on that and move on briefly to  
9 the case management in full, and ask Your Honor to regardless of  
10 how you rule on this motion, to set this case for trial and  
11 schedule an order in accordance with the Court's normal case  
12 management procedures and docket goals for complex personal  
13 injury cases.

14 There's no reason that we couldn't be ready for trial,  
15 even given bifurcation in this case, in the fall of 2017. So I  
16 ask Your Honor to set a trial regardless of bifurcation,  
17 depending on your usual docket management procedures. And  
18 lastly, I would just say in this case, where bifurcation was  
19 first granted in Northern District of California case, the  
20 plaintiffs will be designating experts in January. And Judge  
21 Chaudhary there said he will be ruling on the *Daubert* issues in  
22 May 2017, at which point we'll move into the next phase,  
23 assuming we are successful. That timeframe would certainly  
24 allow a trial to occur in late 2017. So, again, I would just  
25 say that the scheduling should be done irrespective of the  
26 Court's ultimate ruling on bifurcation.

27 And, again, thank you for letting me speak today.

28 THE COURT: You're welcome.

1 Response?

2 MR. CALHOUN: Martin Calhoun for defendants, Your  
3 Honor.

4 Plaintiff counsel really has presented nothing new in  
5 this oral argument that they hadn't already put into the briefs  
6 that Your Honor considered before issuing your tentative ruling.  
7 So there is really no good reason to change Your Honor's  
8 tentative ruling.

9 Plaintiffs don't deny that general causation is a  
10 dispositive issue that is central to all of their claims. And  
11 the only court that has ruled on the issue of whether glyphosate  
12 is carcinogenic or not, as set forth in our papers, rejected  
13 that -- those allegations as lacking reliable scientific  
14 support.

15 So at a minimum one can say that the general causation  
16 issue is hotly disputed between the parties, and so, therefore,  
17 an early *Sargon* admissibility hearing could save substantial  
18 time and expense in resolving this lawsuit.

19 Plaintiff's counsel's suggestion that there will be no  
20 savings by doing it this way, Your Honor, just isn't correct.  
21 In a normal case if we were proceeding with discovery on all  
22 issues, there are several areas where discovery would be  
23 occurring that would not be occurring if the first phase is  
24 focused on general causation.

25 For example, the plaintiffs themselves, Brenda and  
26 James Huerta, we don't see a need to take those depositions if  
27 we proceed on general causation first. There's also a major  
28 disputed issue here about the alleged exposure. These

1 plaintiffs, unlike many of the other plaintiffs who have filed  
2 Roundup lawsuits, do not allege that they themselves applied  
3 Roundup. They allege, in essence, secondhand exposure due to  
4 living on a sod farms where others allegedly applied Roundup.  
5 And those others are allegedly the Superior Sod defendants.

6 So we envision a substantial amount of discovery, Your  
7 Honor, on the issue of exposure or alleged exposure and what  
8 product the plaintiff Brenda Huerta was exposed to. All of that  
9 would be put to one side if would started off, as Your Honor has  
10 already recognized in your tentative ruling, with the issue of  
11 general causation.

12 And so for all of those reasons, Your Honor, we think  
13 you should stick with your tentative ruling. You clearly have  
14 the discretion and the authority to require that discovery  
15 proceed in a phased manner. And the authorities that we cited  
16 support that. Many of the arguments that plaintiff's counsel  
17 has just made were also made in the *Giglio* ruling, to the *Giglio*  
18 court before the *Giglio* ruling issued -- before the *Giglio*  
19 ruling was issue by the Southern District of California, the  
20 notion that there is no -- that there will be duplicative  
21 discovery just is not accurate.

22 We have been proceeding with this law firm in terms of  
23 other discovery in other cases. We are not using the  
24 bifurcation order in *Hardeman* and *Stevic* and *Giglio* to preclude  
25 them from getting the documents of the initial agreed upon  
26 document custodians. We recently produced another large set of  
27 documents. We are now at over 2.5 million documents produced in  
28 those other cases. And those documents will be available, of

1 course, to plaintiffs in this case, as well. And those are all  
2 related to general causation. And those are from document  
3 custodians that have been agreed to between the parties,  
4 including the Miller firm.

5 So there's plenty of discovery to be done, even in the  
6 first phase, Your Honor. And we think that for all the reasons  
7 set forth in our papers that you should affirm or stick with  
8 your tentative ruling.

9 I'll briefly address the case management issue that  
10 plaintiff's counsel addressed. We think their estimate of when  
11 a trial should proceed is overly optimistic even with  
12 bifurcation, or if not -- bifurcation is not ordered, a trial in  
13 the fall of 2017 is too soon.

14 We think it makes more sense, Your Honor, to set  
15 interim deadlines for the first phase that Your Honor has  
16 ordered. We've predicted in our papers that the first phase  
17 could be completed with a *Sargon* admissibility hearing in about  
18 ten months from the date that you issue your order. That would  
19 be in July of 2017.

20 Plaintiff's counsel referred to a May 2017 event in the  
21 *Hardeman* and *Stevick* cases which are in the Northern District of  
22 California. And that would be a *Daubert* admissibility hearing  
23 in May of 2017. If we predict a July 2017 hearing before Your  
24 Honor, then that would fall in line and occur relatively soon  
25 after the *Hardeman Daubert* hearing and the *Giglio Daubert*  
26 hearing that is currently scheduled for June 2017.

27 So we think that is -- those are the deadlines that  
28 Your Honor should be focusing on at this point, and then a trial



1 date could be set later, if necessary, if plaintiffs satisfy  
2 their general causation burden.

3 Unless Your Honor has any questions for me, that's all  
4 I have at this time on this matter, Your Honor.

5 THE COURT: Well, no. I don't have any questions. I  
6 realize this is not a standard approach in every product  
7 liability case, but certainly have had a flavor from both  
8 plaintiff and defense papers on this issue that the expert  
9 opinion testimony issue, the admissibility under *Sargon*,  
10 *Daubert*, whichever case you want to reference, will be hotly  
11 contested.

12 There's a chance that my ruling on that could be  
13 dispositive, in which case the parties will have saved  
14 themselves a lot of unnecessary discovery moving forward to a  
15 general trial date.

16 On the other hand, if it ends up that plaintiff is  
17 correct and those experts are permitted to testify, it doesn't  
18 really set anyone back. This is all discovery that has to be  
19 done, in any event. As far as the possibility of discovery  
20 disputes, you know, would I be surprised if you had discovery  
21 disputes? Of course not. I just remind you that before any  
22 motions are filed, I would want you to have an informal  
23 conference with the Court. Perhaps we can resolve it informally  
24 and avoid those motions. If I'm wrong on that and the motions  
25 start getting out of hand, then we'll be having a different  
26 discussion, and that is whether I need to appoint a discovery  
27 referee.

28 In some ways I'm glad that other courts have ruled

1 differently and that plaintiff is able to move forward with  
2 discovery that isn't limited to general causation. And I would  
3 hope that if plaintiff's experts are permitted to testify that  
4 the party will be entering into some stipulations allowing for  
5 discovery generated in other cases to be used here as is  
6 appropriate.

7           The only thing I don't have an answer for is the  
8 prospect that certain depositions might need to be taken twice,  
9 the first time on general causation issues, subsequently on  
10 other issues. I think when you get to those witnesses, if  
11 you -- if plaintiff sees that possibility, that you will  
12 approach the defense and perhaps make an exception and allow the  
13 witnesses not to be inconvenienced by having their deposition  
14 taken twice. But, yes, there is that risk that certain  
15 witnesses will be inconvenienced by a second deposition. That  
16 is the only issue that gave the Court any pause. And when I  
17 factor that in with all the potential benefits, I remain of the  
18 view that scheduling and bifurcating general causation discovery  
19 has a lot of potential benefit. So we'll stay with that.

20           I do want to set a date for filing the motion. I don't  
21 want to just have status conferences, although we can talk about  
22 the need for that.

23           And I don't recall plaintiff's thought. Do you think  
24 ten months to do this discovery and have the motion filed is too  
25 far out? Is it dramatically different than what the other  
26 judges are doing in the federal courts?

27           MR. LITZENBURG: It is, Your Honor. Judge Chaudhary  
28 who initiated the first ruling re verification, did it in two

1 cases and some courts have followed suit. He had the plaintiff  
2 designating experts, I understand, in January of 2017 on this  
3 subject. And I believe the motion challenging plaintiff's  
4 expert would be due in March, and then the hearing in May.

5 And as long as the Court is persuaded to bifurcate the  
6 case, I would argue that it would probably be wasteful to stray  
7 from that timeline or something extremely similar, because then  
8 we don't -- if it truly is general causation, then it has  
9 nothing to do with the individual plaintiffs. So we're going to  
10 have expert depositions certainly occurring in February of 2017.  
11 We are going to have our experts testifying in this federal  
12 court in May of 2017. And I would suggest that we do this all  
13 in the same timeframe so that the expert depositions could be  
14 cross noticed and not duplicative, et cetera.

15 THE COURT: When did that judge make that order?

16 MR. LITZENBURG: I will have to pull it up. I believe  
17 it was in June of this year. Let me see if I can find the  
18 precise date.

19 MR. CALHOUN: Your Honor, this is Martin Calhoun for  
20 defendant. If I may make one suggestion, we have worked with  
21 the Miller Firm cooperatively, and now that Your Honor has  
22 reaffirmed your tentative ruling, it might be appropriate, if  
23 Your Honor is okay with it, to give us the chance to confer with  
24 plaintiff's counsel with the hope of submitting a proposed  
25 agreed upon order for the interim date leading up to and  
26 including an admissibility *Sargon* hearing before Your Honor.  
27 I'm reasonably confident that we could work something out with  
28 Mr. Litzenburg on that front, if Your Honor would allow us to do

1 so.

2 THE COURT: I don't have any objection to that. What  
3 is plaintiff's thoughts.

4 MR. LITZENBURG: I think that will be fine, Your Honor.  
5 I'll give you a heads up. You know, there is a slight  
6 possibility we won't agree and we'll be submitting dueling ones  
7 with the same arguments. But I'm certainly happy to meet with  
8 defense counsel.

9 I would only add to our discussions again with that,  
10 the Court should go ahead and set a trial date. It can  
11 certainly be vacated if we're thrown out of court on the  
12 science. But in terms of we're causing prejudice to the parties  
13 and trying to avoid the maximum prejudice, and I think Your  
14 Honor is attempting to do that with your ruling. But if a trial  
15 date is not even considered to be set until these hurdles are  
16 past, I think it's extraordinarily prejudicial to these clients.  
17 We're having clients with cancer reoccurrences every day. So I  
18 would just ask that the Court set this on a normal track.

19 THE COURT: Well, a normal track for a complex case is  
20 closer to a three-year time period, but that's usually at the  
21 request of the parties. You're asking for a trial date which  
22 would make it about 23 months from date of filing. I don't know  
23 when the defendants appeared in the case.

24 If you are concerned about getting a trial date, that  
25 should be the least of your concerns. I can accommodate just  
26 about any trial date. I can give you a trial date, but I tend  
27 to say once it's set, it can only be continued with good cause.  
28 And I'm not sure even with all your ongoing in other cases that

1 you necessarily -- and by "you" I mean collectively all the  
2 parties -- have a clear understanding if I deny the defense  
3 motions, what discovery would remain to be done, and how much  
4 time that we'll need.

5           So I think the first thing we need to do is get the  
6 date set for this motion. And from there, you each can be  
7 thinking about what -- you know, the worst case scenario for  
8 defense that I deny their motion, and now the case is proceeding  
9 to trial, what is going to remain to be done, how many  
10 additional depositions need to be taken, what additional written  
11 discovery needs to be done, and contemplate all those, as well  
12 as additional expert depositions. And from that you'll be able  
13 to determine whether you can really get ready for trial in  
14 November.

15           So what I would like to do is kick the CMC over about  
16 20 days. I don't want to put this issue out too far. Direct  
17 you to meet and confer on the discovery timeline for the general  
18 causation. Hopefully, you will agree on a recommended date for  
19 the motion. If not, I'm used to reading two different parties'  
20 views. That's not a problem if that's what ends up happening.

21           If you want to continue your discussion and, again,  
22 assume that the case is going to move forward after that motion  
23 is heard and ruled on and discuss, as well, what additional  
24 discovery you're going to need to do, and then come in with a  
25 proposed trial date, I'm absolutely fine with that. I have no  
26 desire to make people come back multiple times to do nothing  
27 except continue hearings. So whatever you're able to accomplish  
28 in the next 20 days will be great.

1           So the CMC will be put over to 9/28 at 8:30. And as  
2 far as any pro hoc vice, I expect you'll get that resolved.

3           MR. CALHOUN: Martin Calhoun. Your Honor, I  
4 unfortunately already have a CMC scheduled in San Francisco in  
5 the other California state court Roundup case for the morning of  
6 the 28th. I expect -- and that is a required in-person  
7 attendance for me. Is it possible to set the CMC before Your  
8 Honor on another date?

9           THE COURT: Yes. I do them five days a week, so it's  
10 not a problem with me.

11           Now that you raised that you have a California case,  
12 are there any thoughts or discussions about coordination of the  
13 two California state actions or however many California actions  
14 you have?

15           MR. CALHOUN: There's only that one other case, Your  
16 Honor, and it also involves Mr. Litzenburg's firm. So we have  
17 certainly been in contact with them about these issues, and  
18 there's a same motion pending before the San Francisco Superior  
19 Court judge regarding bifurcation. So we expect that we'll have  
20 a ruling in that case on or about September 28.

21           THE COURT: Okay. So if you want to do it the 29th?  
22 Does that work for everybody?

23           MR. CALHOUN: I'm just trying to think, Your Honor, how  
24 quickly I will be back. I guess are you contemplating the  
25 morning or afternoon of the 29th?

26           THE COURT: Typically we calendar matters at 8:30.

27           MR. LITZENBURG: Your Honor, this is plaintiff's  
28 counsel. The 29th is the hearing by the JPML on whether to

1 consolidate these cases, not this case obviously, but most of  
2 the rest of them, into to an M.D.L. And I and several members  
3 of our firm plan to be in Washington to argue that motion. It's  
4 closely related to this case. I'd ask for a different date.

5 THE COURT: As you should. That's an important  
6 hearing. I agree. So now we are going to try September 30 at  
7 9:30.

8 MR. LITZENBURG: That should work.

9 MR. CALHOUN: That works for us, Your Honor. Martin  
10 Calhoun.

11 THE COURT: All right. Notice waived?

12 MR. CALHOUN: Yes, Your Honor, from the defendants.  
13 Notice waived.

14 THE COURT: Plaintiff?

15 MR. LITZENBURG: Notice waived for plaintiffs, as well.

16 THE COURT: All right. Thank you all.

17 UNIDENTIFIED SPEAKER: One last question, Your Honor.  
18 Do you have any preference as to how soon in advance of that  
19 case management conference we get our joint submission in to  
20 Your Honor?

21 THE COURT: If you're going to submit them through the  
22 clerk's office -- thank you for asking -- it will be five  
23 calendar days. So it would need to be in by Monday.

24 UNIDENTIFIED SPEAKER: Thank you, Your Honor.

25 THE COURT: Thank you.

26 UNIDENTIFIED SPEAKER: Thank you.

27 UNIDENTIFIED SPEAKER: Thank you.

28 (Proceedings concluded.)



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SUPERIOR COURT - STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

BRENDA HUERTA AND JAMES HUERTA,	)	
	)	
Plaintiffs,	)	
	)	
Vs.	)	Case No. RIC1600639
	)	
MONSANTO COMPANY; et al.,	)	
	)	
Defendants.	)	
_____	)	

I, KAREN L. BURKS, Certified Shorthand Reporter, No. 7703, do hereby certify:

That on September 8, 2016, in the county of Riverside, state of California, I took in stenotype a true and correct report of the testimony given and proceedings had in the above-entitled case, Pages 1 through 15, and that the foregoing is a true and accurate transcription of my stenotype notes, taken as aforesaid, and is the whole thereof.

DATED: Riverside, California, September 14, 2016

\_\_\_\_\_  
/s/ Karen L. Burks  
KAREN L. BURKS, CSR No. 7703

# **Exhibit 4**



FILE  
San Francisco County Superior Court

SEP 28 2016

CLERK OF THE COURT  
BY: [Signature]  
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

DEWAYNE JOHNSON, ET AL.

Plaintiffs,

vs.

MONSANTO COMPANY, ET AL.

Defendants.

Case No. CGC – 16-550128

CASE MANAGEMENT ORDER NO.2

AND

ORDER DISCHARGING ORDER TO  
SHOW CAUSE WHY SANCTIONS  
SHOULD NOT BE IMPOSED ON  
PLAINTIFFS' COUNSEL

I held a case management conference (CMC) this date.

1. Regarding the OSC, I reject the reasoning in Mr. Hoke's return. The suggestion that another judge excused his presence in a different case, or that the lawyer he sent to the original case management conference would have been of any use, are entirely without merit. However, counsel's apologies are accepted and the order to show cause is discharged.

2. The parties should now promptly issue their first waves of discovery demands with a focus on materials needed for a *Sargon* hearing (see below) and in order to estimate the amount of total percipient discovery needed (see (3) below).

The next CMC is set for **December 21, 2016, at 2:00 p.m.** The parties' joint CMC statement should reflect the results of their meet and confer on at least these issues: **(1) why can we not have a prompt *Sargon* hearing regarding general causation, to be preceded by expert discovery on that issue;** (2) if there is any percipient discovery needed for such a hearing,

1 exactly what is it, why is it needed, and how long will it take to get it; (3) what is the minimum  
2 time needed to complete all percipient discovery; (4) given the response to (3), when should trial  
3 be set; (5) how many court days are required for trial (add 2 days to select a jury and 2 days for  
4 instructions and deliberations, assuming the parties do not waive a jury and account for a  
5 punitive phase if those damages are sought); (6) do the parties agree that discovery taken in this  
6 and the *Huerta* cases is deemed taken in both cases; (7) what is the result of the application for  
7 MDL treatment; (8) do the parties believe that a central deposit of document produced by  
8 defendants, to be accessed by all related cases (state and federal), would be useful; (9) any other  
9 matter which will expedite this case or otherwise assist the parties.  
10  
11

12  
13 Dated: September 28, 2016



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Curtis E.A. Karnow  
Judge Of The Superior Court

**CERTIFICATE OF ELECTRONIC SERVICE**  
(CCP 1010.6(6) & CRC 2.260(g))

I, DANIAL LEMIRE, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On **SEP 28 2016**, I electronically served THE ATTACHED DOCUMENT via File & ServeXpress on the recipients designated on the Transaction Receipt located on the File & ServeXpress website.

Dated: **SEP 28 2016**

T. Michael Yuen, Clerk

By: 

DANIAL LEMIRE, Deputy Clerk

# **Exhibit 5**

## Stewart, Rosemary

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**From:** Stewart, Rosemary  
**Sent:** Monday, September 26, 2016 10:55 AM  
**To:** 'Aimee H. Wagstaff'  
**Cc:** MMiller@millerfirmllc.com; TLitzenburg@MillerFirmLLC.com; Sullivan, James; david.wool@andruswagstaff.com; kellie.johnson@andruswagstaff.com  
**Subject:** RE: Hardeman/Stevick (N.D. Cal.) -- Scheduling Monsanto Custodian Depositions

Aimee, Michael, and Timothy,

In response to your rejection of the first set of dates that we offered for the first five Monsanto employee custodians, and your request for later dates for each of these individuals, we will make the following custodians available for one-day, seven-hour depositions on the following dates in St. Louis, Missouri:

Donna Farmer -- Nov. 15  
William Heydens -- Nov. 18  
Stephen Adams -- Nov. 30  
David Saltmiras -- Dec. 2  
Daniel Goldstein -- Dec. 7

Rosemary



### Rosemary Stewart

Partner

D 202.898.5888 | RStewart@Hollingsworthllp.com  
1350 I Street NW | Washington, DC 20005  
[www.hollingsworthllp.com](http://www.hollingsworthllp.com)

---

**From:** Aimee H. Wagstaff [<mailto:aimee.wagstaff@andruswagstaff.com>]  
**Sent:** Thursday, September 15, 2016 9:14 AM  
**To:** Stewart, Rosemary  
**Cc:** MMiller@millerfirmllc.com; TLitzenburg@MillerFirmLLC.com; Sullivan, James; david.wool@andruswagstaff.com; kellie.johnson@andruswagstaff.com  
**Subject:** Re: Hardeman/Stevick (N.D. Cal.) -- Scheduling Monsanto Custodian Depositions

Rosemary,

I had a conference call with Miller's team to try to make these dates work for both of us. They don't. Further complicating the scheduling is making sure the productions for these custodians are complete so we don't have to depose them numerous times on general causation.

Can you offer us new dates?

Aimee

Sent from my iPhone

On Sep 12, 2016, at 5:53 AM, Stewart, Rosemary <[RStewart@Hollingsworthllp.com](mailto:RStewart@Hollingsworthllp.com)> wrote:



Hi Aimee,

For the first five custodians, we intend to send you notice by the end of September that we have no more planned document productions for them. We have already made voluminous productions from the custodial files of these five employees, with the first production made in early August and the second production in early September (together totaling well over 1.6 million pages). And we anticipate a third large production from the same five custodial files later this week. At least one more production is then expected later in September, but we anticipate that it will be substantially smaller.

Rosemary & Jim

<HollingsworthLLP\_34a84990-3d9e-4b28-a044-cd21af3f95ee.jpg>

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**From:** Aimee H. Wagstaff [<mailto:aimee.wagstaff@andruswagstaff.com>]  
**Sent:** Saturday, September 10, 2016 11:58 AM  
**To:** Stewart, Rosemary  
**Cc:** [MMiller@millerfirmllc.com](mailto:MMiller@millerfirmllc.com); [TLitzenburg@MillerFirmLLC.com](mailto:TLitzenburg@MillerFirmLLC.com); Sullivan, James; [david.wool@andruswagstaff.com](mailto:david.wool@andruswagstaff.com); [kellie.johnson@andruswagstaff.com](mailto:kellie.johnson@andruswagstaff.com)  
**Subject:** Re: Hardeman/Steve (N.D. Cal.) -- Scheduling Monsanto Custodian Depositions

Rosemary,

We are working on these dates. Can you let us know when the custodial file productions will be complete for each of these custodians?

Aimee

Sent from my iPhone

On Sep 8, 2016, at 4:02 PM, Stewart, Rosemary <[RStewart@Hollingsworthllp.com](mailto:RStewart@Hollingsworthllp.com)> wrote:

Aimee, Michael, and Timothy:

The first five Monsanto employee custodians will be available for a one-day, seven-hour deposition on the following dates:

Donna Farmer - October 24, 2016  
William Heydens - October 26, 2016  
Stephen Adams - October 28, 2016  
David Saltmiras - November 2, 2016  
Daniel Goldstein - November 7, 2016

Please let us know if these dates work for both of your firms.

We will provide proposed deposition dates in November for the second group of document custodians at a later time.

Rosemary