

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

In re: PARAQUAT PRODUCTS
LIABILITY LITIGATION

Case No. 3:21-md-3004-NJR

MDL No. 3004

This Document Relates to All Cases

CASE MANAGEMENT ORDER NO. 12
PROTOCOL FOR THE SELECTION OF TRIAL CASES

ROSENSTENGEL, Chief Judge:

In the interest of effective and efficient case management of this complex litigation, the following procedures are established for the identification and selection of individual cases to be tried in this MDL, and further to establish a fact and expert discovery schedule for these cases.

A. IDENTIFICATION OF TRIAL CASES

1. Plaintiffs shall select **eight** cases, Defendant Chevron U.S.A. Inc. shall select **four** cases, and the Syngenta Defendants shall select **four** cases for limited fact discovery. The cases eligible to be considered for early trial selection are those cases in which a Complaint was filed on or before **December 3, 2021**, and a completed Plaintiff Assessment Questionnaire ("PAQ") that is not materially deficient was served and received by Defendants on or before **December 8, 2021**. The case selections shall be submitted to opposing counsel and to the Court *via email only* at ParaquatMDL@ilsd.uscourts.gov on or before **December 15, 2021**.

2. It is imperative for the trial selection process that both sides waive

applicable venue and *forum non conveniens* challenges and stipulate that the trial of any case can be conducted in the Southern District of Illinois without remanding any case to the transferor forum under *Lexecon v. Milberg Weiss* (“*Lexecon Waiver*”). Accordingly, for any plaintiff selected by Plaintiff’s counsel or Defendants’ counsel for limited discovery, it is understood that there shall be a *Lexecon Waiver* for each case. For any other cases selected for limited discovery, absent a *Lexecon Waiver* within 72 hours of the selection, plaintiff or his/her counsel shall inform Special Master Ellis why a *Lexecon Waiver* is not being made. Should it be determined that a *Lexecon Waiver* is not possible, the Court will provide further guidance on the trial selection process.

B. COMPLETION OF LIMITED & ADDITIONAL FACT DISCOVERY

1. Limited fact discovery for the selected cases shall be completed by **March 31, 2022**. Limited fact discovery is defined as the written fact sheets, all documents requested in any fact sheet, and not more than **three depositions** per plaintiff: plaintiff or plaintiff’s family member, one treating or diagnosing physician, and one fact witness regarding exposure. Discovery beyond these depositions as part of limited discovery may be permitted only upon agreement of the parties or with leave of Court.

2. Upon completion of limited discovery, Plaintiffs may suggest **two** cases to be stricken and each defendant may suggest **one** case to be stricken by submitting their suggested strikes to the Court *via email only* at ParaquatMDL@ilsd.uscourts.gov by **April 15, 2022**. By the end of April 2022, the Court will select cases for motion practice and additional fact discovery.

3. After the Court selects the trial cases, the parties shall designate additional

fact witnesses who may be called as witnesses in those trials on or before **May 13, 2022**. Depositions of these fact witnesses, not previously deposed during the limited discovery, shall take place on or before **June 17, 2022**.

4. All additional fact discovery shall be completed by **June 17, 2022**.

C. COMPLETION OF EXPERT DISCOVERY

1. Pursuant to Federal Rule of Civil Procedure 26, Plaintiffs shall designate their expert witnesses on or before **March 31, 2022**.

2. Defendants shall designate their expert witnesses on or before **April 15, 2022**.

3. Plaintiffs shall designate any rebuttal experts on or before **April 29, 2022**.

4. Expert depositions shall be completed by **June 17, 2022**.

D. MOTION PRACTICE

1. Dispositive motions, **including motions for summary judgment and *Daubert* motions**, shall be filed on or before **July 1, 2022**.

2. Responses to summary judgment and *Daubert* motions shall be filed within **30 days** of the motion filing date.

3. Replies to summary judgment and *Daubert* motions, if any, shall be filed within **14 days** of the response filing date.

4. Motions *in limine* for the first trial case shall be filed by **September 15, 2022**. Responses shall be filed by **September 29, 2022**.

E. TRIALS

1. As previously ordered, the final pretrial conference will take place on

October 27, 2022, at 2 p.m. Trial will begin on **November 15, 2022, at 9 a.m.**

2. Additional trials will take place on **March 13, 2023, June 12, 2023, and September 18, 2023.** Final pretrial conference for those trial dates will be set by separate order.

IT IS SO ORDERED.

DATED: December 3, 2021

The image shows a handwritten signature in black ink that reads "Nancy J. Rosenstengel". The signature is written in a cursive style. Behind the signature, there is a faint circular seal of the United States District Court for the District of Maryland.

NANCY J. ROSENSTENGEL
Chief U.S. District Judge