

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

IN RE: ROUNDUP PRODUCTS
LIABILITY LITIGATION

MDL No. 2741

Case No. 3:16-md-02741-VC

This document relates to:

ALL ACTIONS

**PRETRIAL ORDER NO. 50:
PLAINTIFF FACT SHEET COMPLETION
AND DEFICIENCIES**

This Order governs all cases that are currently part of this MDL and that will become part of this MDL, other than the four cases originally filed in the Northern District of California, which will be addressed by separate order.¹ For ease of explanation, the Order describes each plaintiff as belonging to one of four groups: Group 1 refers to the four cases originally filed in the Northern District of California; Group 2 refers to plaintiffs who either reside in California or who filed their cases in California; Group 3 refers to all other plaintiffs whose cases have been transferred to the MDL as of the date of this Order; and Group 4 refers to plaintiffs whose cases will be transferred to the MDL in the future.

Timing and Form of Submission

1. The final Plaintiff Fact Sheet, including Authorizations for Release of Records referenced in Exhibits A-D, for use in this litigation is attached to this Order. The Fact Sheet shall be completed in each case currently pending in this MDL and in all cases that become part of this MDL by virtue of being filed in, removed to, or transferred to this court.

2. Plaintiffs shall each complete and serve upon Monsanto a Plaintiff Fact Sheet and Authorizations for Release of Records (Exhibits A-D) in the time and format specified below.

¹ Those four cases are *Hardeman* (3:16-cv-525), *Stevick* (3:16-cv-2341), *Gebeyehou* (3:16-cv-5813), and *Penrod* (3:16-cv-5901).

Monsanto shall provide plaintiffs' counsel with any records that Monsanto obtains pursuant to the Authorizations for Release of Records within 28 days of receipt of such records by Monsanto.

3. Plaintiffs and Monsanto shall use the online MDL Centrality system designed and provided by BrownGreer PLC and accessible at www.MDLCentrality.com to implement the provisions of this Order.

4. A completed Plaintiff Fact Sheet, signed and dated Authorizations, and all responsive documents in plaintiff's possession shall be submitted to Monsanto through the online MDL Centrality system on the following schedule: (a) within 63 days (nine weeks) from the date of this Order for Group 2 plaintiffs;² (b) within 119 days (seventeen weeks) from the date of this Order for Group 3 plaintiffs; and (d) within 91 days (thirteen weeks) from the date of transfer for Group 4 plaintiffs.

5. Each plaintiff shall, by counsel or *pro se*, establish a secure online portal in the MDL Centrality online system and obtain authorized user names and secure login passwords to permit use of MDL Centrality by counsel and/or plaintiff. Counsel for plaintiff or each *pro se* plaintiff shall be permitted to view, search and download on MDL Centrality only those materials submitted by that plaintiff, and not materials submitted by or relating to other plaintiffs. Lead Counsel shall be permitted to view the materials submitted by all plaintiffs.

6. Counsel for Monsanto shall establish a secure online portal with the MDL Centrality online system and obtain authorized user names and secure login passwords to permit use of MDL Centrality.

7. Each plaintiff is required to complete the Plaintiff Fact Sheet, including the accompanying records authorization forms, through the MDL Centrality online portal. The Fact Sheet provided must be complete in all respects, answering every question in the Fact Sheet,

² Group 2 plaintiffs will be required to provide the Court with additional information regarding the proper venue for their cases in accordance with an order that the Court will issue separately. The purpose of this requirement is to help assess whether some cases from Group 2 can be moved into Group 1 and tried in the first half of 2019.

even if a plaintiff can answer the question in good faith only by indicating “not applicable.” Each plaintiff shall declare under penalty of perjury that the information in the Fact Sheet submitted online is true and correct to the best of the plaintiff’s knowledge. If feasible, each plaintiff should be permitted to do so by electronically signing the Fact Sheet through the MDL Centrality online portal, but plaintiffs may also submit a hardcopy of the signature page to BrownGreer. Counsel for plaintiffs are not permitted to sign the Fact Sheet on a client’s behalf. If a plaintiff brings suit in a representative or derivative capacity, the Fact Sheet shall be completed by the person with the legal authority to represent the estate or person under legal disability, and the Fact Sheet should then be signed by that plaintiff’s proper legal representative. Each plaintiff must also complete and sign each of the required Records Authorizations, which will be uploaded and served through MDL Centrality

8. Plaintiffs who do not have access to or who are unable to use a computer may provide a hard copy of the Fact Sheet either to their attorney (who must then transmit the fact sheet to BrownGreer) or to BrownGreer directly. Plaintiffs who do not fill out an electronic Fact Sheet must submit a hard copy of their signature page to BrownGreer. Regardless of how it is completed, BrownGreer must receive the completed Fact Sheet by the deadlines specified in this Order.

9. Service of the completed Plaintiff Fact Sheets and records authorizations shall be deemed to occur when the submitting party has performed each of the steps required by the MDL Centrality system to execute the online submission of the materials, and the submitting party has received confirmation on screen that the materials have been successfully submitted.

10. If a party must amend a previously served Plaintiff Fact Sheet, all subsequent versions must be named accordingly (“First Amended Fact Sheet,” “Second Amended Fact Sheet,” etc.) and the certification page must include the plaintiff’s electronic signature, or that of a proper legal representative. All iterations of the Fact Sheet shall remain accessible through trial, appeal (if any), and other resolution of the litigation.

Procedure for Material Deficiencies

11. Plaintiffs who fail to provide a complete, signed Plaintiff Fact Sheet, signed and dated Authorizations, and all responsive documents requested in the Fact Sheet within the time periods set forth herein shall be given notice of deficiency by Monsanto within the following timeframes: (a) 28 days (four weeks) from receipt of the partial Fact Sheet for Group 2 plaintiffs; (b) 91 days (thirteen weeks) from receipt of the partial Fact Sheet for Group 3 plaintiffs; and (c) 63 days (nine weeks) from receipt of the partial Fact Sheet for Group 4 plaintiffs. Only a Fact Sheet with material deficiencies shall be considered incomplete.

12. If a plaintiff submits an incomplete Fact Sheet within the time specified in this Order, Monsanto's counsel shall send deficiency correspondence by e-mail through the MDL Centrality system to plaintiffs' Lead Counsel and the plaintiff's individual representative counsel, identifying the purported deficiencies.

13. Plaintiffs will then be given an opportunity to cure any deficiencies within the following timeframes: (a) 21 days (three weeks) from receipt of the deficiency letter for Group 2 plaintiffs; (b) 42 days (six weeks) from receipt of the deficiency letter for Group 3 plaintiffs; and (c) 28 days (four weeks) from receipt of the deficiency letter for Group 4 plaintiffs.

14. If a plaintiff does not submit a cured Fact Sheet within the time specified in Paragraph 13 of this Order, Monsanto may move immediately to dismiss that plaintiff's case with prejudice. A plaintiff must respond within 14 days of the filing of the motion. The motion will be ripe after the deadline for filing a response.

15. If a plaintiff does not submit a Fact Sheet at all within the time specified in this Order, Monsanto must notify plaintiff's counsel and Lead Counsel and provide plaintiff 7 days in which to submit the Fact Sheet. If plaintiff has not submitted a completed Fact Sheet within those 7 days, Monsanto may move immediately to dismiss that plaintiff's case with prejudice. A plaintiff must respond within 14 days of the filing of the motion. The motion will be ripe after the deadline for filing a response.

Miscellaneous

16. Plaintiffs' responses to the Plaintiff Fact Sheets shall be treated as answers to interrogatories under Fed. R. Civ. P. 33 and responses to requests for production of documents under Fed. R. Civ. P. 34 and shall be supplemented in accordance with Fed. R. Civ. P. 26.³

17. This section does not prohibit a plaintiff from withholding or redacting information from medical or other records provided with the Plaintiff Fact Sheet based upon a recognized privilege. If information is withheld or redacted on the basis of privilege, plaintiff shall provide Monsanto with a privilege log that complies with Fed. R. Civ. P. 26 (b)(5) simultaneously with the submission of the Fact Sheet.

18. Monsanto's use of the Plaintiff Fact Sheets and Authorizations shall be without prejudice to its right to serve additional discovery in all cases, as permitted by the Court and the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

Date: September 26, 2018



HONORABLE VINCE CHHABRIA
UNITED STATES DISTRICT COURT

³ See, e.g., *In re Yasmin & Yaz (Drospirenone) Mktg., Sales Practices & Prods. Liab. Litig.*, MDL No. 2100, No. 3:09-md-02100-DRH-PMF, Order No.12, Case Management (PFS) (S.D. Ill. Mar. 3, 2010) ("A completed PFS. . . shall be considered to be interrogatory answers and responses to requests for production under the Federal Rules of Civil Procedure, and will be governed by the standards applicable to written discovery under the Federal Rules of Civil Procedure.").