

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. 4

ROSENSTENGEL, Chief Judge:

The undersigned issues this fourth Case Management Order to appoint Randi S. Ellis as special master.

Appointment of Special Master

Plaintiffs in these cases allege injuries, including the development of Parkinson's disease, caused by exposure to the herbicide paraquat. Currently, more than 155 cases are pending that were filed in this Court, have been transferred to this Court, or are subject to a Conditional Transfer Order to this Court. There are additional related cases currently pending in state-court dockets in California and Illinois. The Court expects many additional cases to be filed over the next several months.

Because of the quantity and complexity of these related cases and the common interest in a fair and expeditious resolution, the Court has determined that it would be beneficial to appoint a special master to assist the Court. FED. R. CIV. P. 53. As required by Federal Rule of Civil Procedure 53(b)(1), the parties were given notice and an opportunity to be heard regarding the Court's intention. (CMO No. 3, Doc. 170.) No objections were made.

The Court thus appoints Randi S. Ellis to serve as special master. Ms. Ellis is well-qualified to carry out the responsibilities of this position.

Duties and Responsibilities of the Special Master

The special master shall perform any and all duties assigned to her by the Court (as well as any ancillary acts required to fully carry out those duties) as permitted by both the Federal Rules of Civil Procedure and Article III of the Constitution. The Court directs the special master to proceed with all reasonable diligence in carrying out her duties as assigned by the Court.

As an initial matter, the Court directs the special master to meet and confer with plaintiffs' lead counsel and defendants, individually or together, and to make reports and recommendations, including proposed orders, regarding the following:

1. A reasonable schedule for discovery and key motions consistent with the first trial date set for November 15, 2022;
2. How best to establish reasonable discovery protocols including procedures for exchanging materials, depositions, and expert discovery;
3. How best to establish, maintain, and update a database of persons who possess claims related to those in this MDL;
4. How best to establish, maintain, and update a database of plaintiffs who have filed related claims in federal or state court;
5. A reasonable methodology for the selection of plaintiffs whose cases shall be set for trial on November 15, 2022;
6. How best for this Court to coordinate with related state court proceedings, *e.g.*, *Paraquat Cases*, JCCP No. 5031 (Contra Costa Cty. Sup. Ct.), to avoid duplicative discovery and related delay; and

7. A reasonable framework for plaintiffs' lead counsel to periodically determine and submit their respective common benefit time and related expenses for review and approval.

Procedure for Reports and Recommendations

The special master shall file any report and recommendation with the Court via the Case Management/Electronic Case Filing ("CM/ECF") system, which shall fulfill the special master's duties regarding service on the parties. A party may file objections to—or a motion to adopt or modify—the master's report and recommendations no later than 10 days after service. FED. R. CIV. P. 53(f)(2). Responses to any objections or motions shall be filed no later than 10 days after service. The Court may modify these procedures as needed on a case-by-case basis.

Ex Parte Communications

The special master may communicate *ex parte* with the Court and with any party's counsel for the purpose of fulfilling her role and duties.

Reports to the Court

The special master shall make periodic reports to the Court regarding the progress in executing her role and duties. At a minimum, such reports shall be made monthly.

Records

The special master shall maintain billing records of the time spent on this matter, with descriptions of the activities and matters worked on, which shall be submitted to the parties on a periodic basis for review and payment.

Fees and Expenses

The special master shall be paid her standard hourly rate and reimbursed for

reasonable out-of-pocket expenses in connection with the discharge of her duties. Plaintiffs' leadership council shall pay 50% of the master's fees and expenses. Defendants jointly shall pay the other 50%.

IT IS SO ORDERED.

DATED: July 14, 2021

Handwritten signature of Nancy J. Rosenstengel in black ink, written over a circular official seal of the U.S. District Court for the District of Columbia.

NANCY J. ROSENSTENGEL
Chief U.S. District Judge