

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

SECOND ORDER AMENDING DISCOVERY SCHEDULE

ROSENSTENGEL, Chief Judge:

On March 7, 2022, the Court amended the fact and expert discovery deadlines previously set forth in Case Management Order No. 12. (*See* Docs. 587, 1116). The Court imposed a deadline of May 16, 2022, for the parties to complete fact discovery and medical examinations in cases selected for full work up. (Doc. 1116). It soon became clear, however, that the May 16 deadline was unworkable given the number of fact witnesses disclosed by Plaintiffs. Accordingly, on May 3, 2022, the Court suspended the May 16 deadline pending further discussions with the parties, while also directing the parties to continue with the discovery process. (*See* Doc. 1449).

Having consulted with the parties and Special Master Randi S. Ellis, the Court now further **AMENDS** its previous orders as follows:

- The parties shall complete fact discovery and medical examinations in all six trial selection cases on or before **July 25, 2022**.
- By **May 25, 2022**, each Plaintiff shall identify any witness who may provide information relevant to expert disclosures, including but not limited to witnesses who

may have information relevant to Plaintiff's Paraquat purchase, sale, exposure, use, and/or location where exposure took place, or Plaintiff's economic damages. Defendants may take a deposition of any such witness. To the extent Defendants seek to depose a witness relevant to expert disclosures who is not disclosed by Plaintiffs pursuant to this paragraph, Defendants may do so, but they may not depose more than three such witnesses per Plaintiff at this time, unless good cause is shown. Any deposition taken of a witness identified by either side pursuant to this paragraph shall be limited to three hours (unless good cause is shown that additional time is needed) and completed **by July 25, 2022**.

- The Court grants Defendants the ability to depose up to three non-economic fact witnesses. Any deposition taken pursuant to this paragraph shall be limited to three hours (unless good cause is shown that additional time is needed) and completed **by July 25, 2022**.

- The parties are limited to one deposition of a treating physician (*i.e.*, medical witness) involved in Plaintiff's care and treatment. By **May 25, 2022**, each Plaintiff shall identify and inform Defendants of their selection. If Defendants do not agree with Plaintiff's selection, they may request an additional medical deposition. The Special Master may grant such request upon a showing of good cause. Each medical witness deposition shall be limited to three hours total (unless good cause is shown that additional time is needed), split equally between the parties, and completed **by July 25, 2022**.

- Defendants may undertake an independent medical examination (IME) of

each Plaintiff, to be completed by **July 25, 2022**. The parties shall agree to an IME protocol and proceed in good faith. To the extent they cannot agree, any disputes shall be raised with the Special Master.

- Subject to the time limitations set forth above for the medical witness deposition, all depositions are to be taken pursuant to the Federal Rules of Civil Procedure rather than Illinois state law.

- The Court will address the need for additional depositions, if necessary, at a later date. It is the Court's expectation that any witness potentially relevant to expert disclosures as set forth above will be identified and be deposed as required by this Order. To the extent Plaintiffs intend to call additional witnesses at trial who have not been deposed pursuant to this Order, Defendants shall be permitted to depose those witnesses after the Court selects a case to proceed to trial.

- All previously imposed deadlines related to expert disclosures and expert depositions are **STAYED** and will be reevaluated after upcoming status conferences with counsel.

IT IS SO ORDERED.

DATED: May 18, 2022

The image shows a handwritten signature in black ink that reads "Nancy J. Rosenstengel". The signature is written in a cursive style. A circular seal of the United States District Court for the District of Columbia is partially visible behind the signature.

NANCY J. ROSENSTENGEL
Chief U.S. District Judge