



1 The parties submit this joint case management statement based on the discussions with  
2 the Court during the May 22, 2019 Case Management Conference.

3 **I. REMAND PLAN**

4 **A. PLAINTIFFS' PROPOSAL**

5 Plaintiffs respectfully submit that the Court's Tentative Remand Plan (PTO 147), with  
6 slight modifications to the grouping of cases, would result in the most efficient process for the  
7 remand of cases to their home districts for trial. The Court already ruled on the general outline  
8 of the remand plan. Plaintiffs' plan is based on the Court's directive; Monsanto's proposal  
9 improperly disregards the Court's remand protocol.

10 The Court should first remand cases that will be governed by California law. The Court  
11 has already expended substantial time and resources applying California law to case-specific  
12 issues in this litigation. The Court's prior rulings on summary judgment and case-specific  
13 *Daubert* in the California trial cases will allow the parties to avoid duplicative motions practice  
14 on matters that have already been decided by the Court. If there are no material differences  
15 between a particular California case and the cases for which summary judgment has already been  
16 denied, the Court could recommend that the JPML remand those actions back to the transferor  
17 court without delay. If there are material differences, the Court's decisions in those cases would  
18 generate additional authority on issues likely to affect other plaintiffs in the MDL.

19 In complex MDL proceedings, "[m]otion practice can be a source of substantial cost and  
20 delay." *Manual for Complex Litigation (Fourth)* § 11.32 (2004). The Court should therefore  
21 take measures to "avoid the filing of unproductive motions." *Id.* at § 11.34. Resolving the  
22 California cases first would substantially reduce the necessary motions practice in subsequent  
23 cases resulting in a more-efficient process.

24 Monsanto's proposal for the Court to adopt the "first-in, first-out" approach, or  
25 alternatively to focus on cases applying Nebraska or North Carolina law, fails to comply with  
26 this Court's directive. Monsanto has made no effort to demonstrate that the laws of Nebraska  
27 and North Carolina are the same or substantially the same. *See In re Roundup Prod. Liab. Litig.*,

1 16-md-2741-VC; Tr. (5-22-19) 111:6-112:5 (requiring “one law per wave.”). Indeed, Monsanto  
2 did not even address how the law of these states would materially differ from California for the  
3 purposes of case-specific summary judgment motions. Thus, Monsanto has failed to make the  
4 necessary showing that Nebraska and North Carolina cases should be included in the same wave  
5 of remand. Proceeding under Monsanto’s proposal would result in the fragmentary treatment of  
6 randomly-selected cases without any showing of how those cases would materially advance the  
7 goal of remand.

8 Monsanto further argues that the California cases do not provide a representative sample  
9 that would allow the parties to value and evaluate the litigation. However, the need to select  
10 “representative cases” applies to MDL bellwether selections *for trial* not remand. In refusing to  
11 waive *Lexecon* for any and all cases, Monsanto assured that the “representative” bellwether cases  
12 from this MDL would each apply California law. [See Dkt. 1892; Monsanto Resp. to P’s  
13 Position: Venue]. In any event, Monsanto overstates the necessity of remand to other  
14 jurisdictions in order to evaluate the nature and strength of the claims. As the Court noted at the  
15 May 22, 2019 hearing, California is “a very diverse state” and there are upcoming trials in  
16 Missouri that would provide relevant information to evaluate these claims. There are also claims  
17 currently pending in the state courts of Montana, Florida, Hawaii, and Alabama. The Court’s  
18 focus should be the most efficient manner to remand the cases from this MDL and not the  
19 selection of a particular venue.

### 20 **1. Remand of California Cases in Separate Waves**

21 Plaintiffs propose that cases governed by California law should be remanded in two  
22 waves. The first wave would include the fourteen (14) cases filed directly in the Southern  
23 District of California, Central District of California, or Eastern District of California.<sup>1</sup> The  
24 second wave would include all cases governed by California law that were filed in jurisdictions  
25 outside the State of California.<sup>2</sup>

26  
27 \_\_\_\_\_  
<sup>1</sup> *Giglio* is not included in this wave and would operate under a separate CMO.

28 <sup>2</sup> These include cases filed in the Eastern District of Missouri and the District of Hawaii.

1 The Manual for Complex Litigation (Fourth) advises that, at the time of remand, the  
2 complete pretrial record should be sent to the transferor court. *Manual for Complex Litigation*  
3 (*Fourth*) § 20.133 (2004). Additionally, the transferee court should include a pretrial order that  
4 fully chronicles the proceedings, summarizes the rulings, and outlines the issues remaining for  
5 discovery and trial. *Id.* For the reasons described above, it would be more efficient for the  
6 Court's initial pretrial order on remand to be limited to California law and then later amended, as  
7 necessary, for other states.

8 Plaintiffs respectfully submit that two phases of remand for the California cases are  
9 necessary as it is likely that the Court will be required to make different recommendations to the  
10 transferor courts based on the circumstances of these cases. In the pretrial order transmitted to  
11 the transferor courts, the transferee court may also include a recommendation that the transferor  
12 courts transfer non-resident cases to their home district.<sup>3</sup> *Kalama v. Matson Navigation Co. Inc.*,  
13 875 F. 3d 297, 309 (J. Stranch, concurring); *Musselman v. Amphenol Corp.*, No. 10-cv-69486,  
14 2011 WL 6415165 (E.D. Pa. Nov. 28, 2011). Plaintiffs submit that the transfer of the California  
15 cases to the Eastern District of Missouri, and other federal districts, should include a  
16 recommendation that the transferor court send the cases to the venue of Plaintiffs' residence.

17 Allowing the cases filed outside of California to proceed on a separate track would  
18 promote efficiency at the time of remand. These cases would benefit from the Court's rulings in  
19 the "Wave 1" cases and specifically include any recommendations from this Court on how the  
20 transferor courts should handle the venue of non-resident plaintiffs.

## 21 **2. Plaintiffs' Proposed CMO**

### 22 **a. REMAND: *Giglio v. Monsanto*, Case No. 3:16-cv-05658-VC**

23 Pursuant to the May 22, 2019 Case Management Conference, the following CMO is  
24 proposed for Plaintiff Emanuel Giglio:

25  
26  
27 <sup>3</sup> This Court is required to remand the cases back to the district from which it was transferred. *In*  
28 *re Biomet M2A Magnum Hip Implant Prod. Liab. Litig.*, 357 F. Supp. 3d 1389, 1390 (JPML  
2018).

<b>Event</b>	<b>Date</b>
Identification by Monsanto of the products Plaintiff was potentially exposed to; applicable product labeling; chemical composition of the formulation; advertisements associated with the products; and Monsanto sales representatives	30 days from entry of order identifying cases for work-up
Close of fact discovery	October 14, 2019
Plaintiffs' expert reports due	October 18, 2019
Monsanto's expert reports due	November 25, 2019
Close of expert discovery	December 20, 2019
Monsanto's <i>Daubert</i> and summary judgment briefs due	January 3, 2020
Plaintiffs' oppositions and cross-motions due	January 11, 2020
Monsanto's oppositions/replies re: <i>Daubert</i> and summary judgment due	January 18, 2020
Plaintiffs' replies re: <i>Daubert</i> and summary judgment due	January 22, 2020
<i>Daubert</i> hearing/argument (if any)	February 6, 2020 (subject to the Court's availability)

**b. REMAND WAVE 1 (14 cases filed in California federal court)**

<b>Event</b>	<b>Date</b>
PFSs due for any Plaintiffs who have not yet provided them, including all relevant authorizations	45 days from entry of order identifying cases for work-up
Plaintiff to provide any medical records in his/her possession and/or his/her counsel's possession to defense counsel	45 days from entry of order identifying cases for work-up
Deficiency letter(s) sent	4 business days from receipt of PFS
Deadline to cure PFS deficiencies. The parties may file letter briefs regarding any disputes about whether a deficiency exists.	14 days from receipt of deficiency letter
Identification by Monsanto of the products Plaintiff was potentially exposed to; applicable product labeling; chemical composition of the formulation; advertisements associated with the products; and Monsanto sales representatives	60 days from entry of order identifying cases for work-up
Close of fact discovery	October 14, 2019
Plaintiffs' expert reports due	October 31, 2019
Monsanto's expert reports due	November 29, 2019

1	Close of expert discovery	January 24, 2020
2	Monsanto's <i>Daubert</i> and summary judgment briefs due	January 31, 2020
3	Plaintiffs' oppositions and cross-motions due	February 21, 2020
4	Monsanto's oppositions/replies re: <i>Daubert</i> and summary judgment due	February 28, 2020
5	Plaintiffs' replies re: <i>Daubert</i> and summary judgment due	March 6, 2020
6	<i>Daubert</i> hearing/argument (if any)	March 20, 2020 (subject to the Court's availability)

8                   **c.        REMAND WAVE 2 (California cases filed in a federal district outside of**  
9                   **California)**

10	<b>Event</b>	<b>Date</b>
11	PFSs due for any Plaintiffs who have not yet provided them, including all relevant authorizations	90 days from entry of order identifying cases for work-up
12	Plaintiff to provide any medical records in his/her possession and/or his/her counsel's possession to defense counsel	90 days from entry of order identifying cases for work-up
13	Deficiency letter(s) sent	7 business days from receipt of PFS
14	Deadline to cure PFS deficiencies. The parties may file letter briefs regarding any disputes about whether a deficiency exists.	14 days from receipt of deficiency letter
15	Identification by Monsanto of the products Plaintiff was potentially exposed to; applicable product labeling; chemical composition of the formulation; advertisements associated with the products; and Monsanto sales representatives	60 days from entry of order identifying cases for work-up
16	Close of fact discovery	April 15, 2020
17	Plaintiffs' expert reports due	May 1, 2020
18	Monsanto's expert reports due	June 1, 2020
19	Close of expert discovery	August 3, 2020
20	Monsanto's <i>Daubert</i> and summary judgment briefs due	August 10, 2020
21	Plaintiffs' oppositions and cross-motions due	August 31, 2020
22	Monsanto's oppositions/replies re: <i>Daubert</i> and summary judgment due	September 7, 2020

1	Plaintiffs' replies re: <i>Daubert</i> and summary judgment due	September 14, 2020
2	<i>Daubert</i> hearing/argument (if any)	September 28, 2020 (subject to the Court's availability)

### 3. Subsequent Remands

PTO 147 contemplates that subsequent groups of cases would be remanded based on the state law that would be applied to the plaintiffs' claims. If the Court adopts a state-by-state approach, the Court suggested that Monsanto would be permitted to select the first state. Plaintiffs do not object to "Wave 3" being limited to cases governed by either Nebraska or North Carolina law. Consistent with the Court's recommendation, however, Plaintiff submits that Monsanto should only be entitled to the selection of one of these states; not both. Plaintiff would then be entitled to select the state for "Wave 4" and the parties would then alternate until all cases have been remanded.

### B. MONSANTO'S PROPOSAL

Consistent with the colloquy with the Court, Monsanto has selected two states—Nebraska and North Carolina—for inclusion in the next two phases of this litigation. *See infra* at II. But after consideration of the large number of California-law plaintiffs and cases that would be worked up and tried as part of the planned first remand wave (or first two waves, under Plaintiffs' proposal),<sup>4</sup> Monsanto respectfully submits that the Court should adopt a different approach to the next two phases of this MDL. The purposes of an MDL are to effectuate the efficient resolution of mass tort cases, including by giving the parties valuable information about the strengths of their positions and the overall value of the litigation. While Monsanto appreciates the opportunity to select jurisdictions as part of the next two phases, the Court's plan continues to give one state—California—disproportionate weight and thereby has significant potential to impede the overall resolution of this MDL.

<sup>4</sup> Based on Monsanto's calculations, there appear to be almost 100 California plaintiffs spread across 51 cases. *See infra* at II.

1 This litigation, taken as a whole, already is providing an overwhelming amount of  
2 information about how plaintiffs' claims fare in California. By the very nature of the location of  
3 this MDL and the parallel, consolidated proceeding in California state court, the thrust of this  
4 otherwise-national litigation has been almost exclusively to this point centered in California.  
5 And with *Stevick* and *Giglio* destined for trial in federal court, and many hundreds of cases  
6 already pending in the state court proceeding (not counting the hundred or so plaintiffs subject to  
7 remand motions in this Court), this California focus is set to continue. Indeed, Judge Smith is  
8 modeling the workup of the cases in the coordinated proceedings after the aggressive schedule  
9 she adopted in a separate coordinated proceeding involving Essure. Moreover, Plaintiffs have  
10 suggested that they intend to bring more trial-preference motions in state court in an effort to  
11 further speed up certain cases and increase the number of California verdicts. Under these  
12 circumstances, placing California front and center in this MDL as well—including by setting  
13 potentially dozens more cases governed by California law beyond *Stevick* and *Giglio* on a path to  
14 trial—is counterproductive. Focusing so heavily on California plaintiffs in this otherwise-  
15 national litigation will not provide a representative sample from which the parties can value and  
16 evaluate the litigation.<sup>5</sup>

17 To be sure, the Court's remand proposal does expand the list of trial jurisdictions to parts  
18 of California outside the San Francisco Bay Area. But notwithstanding its apparent diversity,  
19  
20

---

21 <sup>5</sup> See Manual for Complex Litigation § 22.315 (explaining that bellwether cases must “be  
22 representative of the range of cases” if they are to “produce a sufficient number of representative  
23 verdicts and settlements to enable the parties and the court to determine the nature and strength  
24 of the claims, whether they can be fairly developed and litigated on a group basis and what range  
25 of values the cases may have if resolution is attempted on a group basis”); see also *In re General  
26 Motors LLC Ignition Switch Litig.*, MDL No. 2543, 2016 WL 1441804, at \*9 (S.D.N.Y. Apr. 12,  
27 2016) (noting that the “primary purpose” of initial trials “is to provide data points for settlement  
28 discussions with respect to the universe of cases,” so the process should not allow selection of  
cases “likely to result in victory for one side or the other”); *In re Hydroxycut Mktg. & Sales  
Practices Litig.*, No. 09- md-2087 BTM (KSC), 2012 WL 3637278, at \*3 (S.D. Cal. Aug. 21,  
2012) (early trial cases must be “representative” of the larger group of cases pending in MDL);  
*In re Yasmin & Yaz (Drospirenone) Mktg., Sales Practice & Prods. Liab. Litig.*, MDL No. 2100,  
2010 U.S. Dist. LEXIS 108107, at \*4, \*6-7 (S.D. Ill. Oct. 8, 2010) (noting it is “critical” to a  
successful early trial case plan “that an honest representative sampling of cases be achieved”).



1 there are several unique features that make California a poor candidate to be the sole source of  
 2 preliminary information about this litigation. For example:

- 3 • California has adopted The Safe Drinking Water and Toxic Enforcement Act of 1986,  
 4 Cal. Health and Safety Code section 25249.5 *et seq.* (Proposition 65), which requires  
 5 that cancer warnings be placed on an abundance of items that do not require warnings  
 6 in other jurisdictions, distorting jurors' views of when and why cancer warnings are  
 7 warranted;
- 8 • California has a distinctive "substantial factor" test for causation that arguably  
 9 reduces the burden on plaintiffs to establish causation compared to the tests used in  
 10 many other jurisdictions, which can make an enormous difference in cases involving  
 11 an idiopathic disease with multiple known and unknown risk factors;<sup>6</sup>
- 12 • California imposes no caps on noneconomic damages,<sup>7</sup> while many other states  
 13 provide for reasonable limits on noneconomic damages;<sup>8</sup>

14 <sup>6</sup> Compare *Novak v. Cont'l Tire N. Am.*, 231 Cal. Rptr. 3d 324, 328 (Ct. App. 2018) (affirming  
 15 California's definitive adoption of the substantial factor test from the Restatement Second of  
 16 Torts for cause-in-fact determinations), with *Reigel v. SavaSeniorCare L.L.C.*, 292 P.3d 977, 987  
 17 (Colo. App. 2011) ("To establish causation under Colorado law, a plaintiff must show either that  
 18 (1) but for the defendant's alleged negligence, the claimed injury would not have occurred, or (2)  
 19 the defendant's alleged negligence was a necessary component of a causal set that would have  
 20 caused the injury."), *Culver v. Bennett*, 588 A.2d 1094, 1099 (Del. 1991) (holding that inclusion  
 21 of "substantial factor" test in jury instructions was reversible error because proper inquiry under  
 22 Delaware law was whether negligence was a "but for" cause of injury), *Callahan v. Cardinal  
 Glennon Hosp.*, 863 S.W.2d 852, 863 (Mo. 1993) ("All of this discussion concerning the  
 semantics of causation is less important in Missouri than in most jurisdictions because under  
 MAI we do not use the terms 1) 'proximate cause,' 2) 'but for causation,' or 3) 'substantial  
 factor' when instructing the jury. We merely instruct the jury that the defendant's conduct must  
 'directly cause' or 'directly contribute to cause' plaintiff's injury."), *Joshi v. Providence Health  
 Sys. of Or. Corp.*, 149 P.3d 1164, 1169 (Or. 2006) ("[T]he 'substantial factor' standard has not  
 supplanted the 'but-for' or 'reasonable probability' standard of causation. . . . The 'but-for' test  
 for causation, in which a plaintiff must demonstrate that the defendant's negligence more likely  
 than not caused the plaintiff's harm, applies to the majority of cases."), and *Ford Motor Co. v.  
 Boomer*, 285 Va. 141, 154, 736 S.E.2d 724, 730 (Va. 2013) (rejecting the substantial factor test,  
 in part because "[t]he term substantial contributing factor could be construed to mean any cause  
 that is more than a merely de minimis factor").

23 <sup>7</sup> California makes exceptions to this general rule in circumstances not relevant here, such as in  
 24 medical malpractice actions. See, e.g., Cal. Civil Code 3333.2(b) ("In no [action for injury  
 25 against a health care provider based on professional negligence] shall the amount of damages for  
 noneconomic losses exceed two hundred fifty thousand dollars (\$250,000).").

26 <sup>8</sup> Compare *Plotnik v. Meihaus*, 146 Cal. Rptr. 3d 585 (Cal. Ct. App. 2012) ("[T]here is no fixed  
 27 or absolute standard by which to compute the monetary value of emotional distress,' and a 'jury  
 28 is entrusted with vast discretion in determining the amount of damages to be awarded.'" (quoting  
*Hope v. Cal. Youth Auth.*, 36 Cal. Rptr. 3d 154 (2005))), with Colo. Rev. Stat. Ann. § 13-21-  
 102.5(3)(a) ("In any civil action other than medical malpractice actions in which damages for  
 noneconomic loss or injury may be awarded, the total of such damages shall not exceed the sum

- 1 • California permits punitive damages awards and imposes no dollar cap on their size, while many other states bar the award of any punitive damages altogether or set reasonable limit on such awards;<sup>9</sup>
- 2
- 3 • California’s pool of prospective jurors is tainted by the extensive, and highly prejudicial coverage in local, state, and national news media of the prior three California verdicts;<sup>10</sup>
- 4
- 5 • California has a trial-preference system that allows plaintiffs in state court to unilaterally push certain cases to the front of the line, without any consideration of what might be best for the overall litigation and irrespective of the prejudice caused to defendants;<sup>11</sup>
- 6
- 7
- 8 • This Court has observed that the Ninth Circuit’s interpretation of *Daubert*—which the Court has proposed to apply to every specific causation motion in the litigation—is distinctive and requires greater “deference to experts in close cases than might be
- 9
- 10

11 of two hundred fifty thousand dollars, unless the court finds justification by clear and convincing evidence therefor. In no case shall the amount of noneconomic loss or injury damages exceed five hundred thousand dollars.”); Kan. Stat. Ann. § 60-19a02(b) (“In any personal injury action, the total amount recoverable by each party from all defendants for all claims for noneconomic loss shall not exceed a sum total of: (1) \$250,000 for causes of action accruing on or after July 1, 1988, and before July 1, 2014; (2) \$300,000 for causes of action accruing on or after July 1, 2014, and before July 1, 2018; (3) \$325,000 for causes of action accruing on or after July 1, 2018, and before July 1, 2022 . . . .”); Md. Code Ann., Cts. & Jud. Proc. § 11-108(b)(1) (“In any action for damages for personal injury in which the cause of action arises on or after July 1, 1986, an award for noneconomic damages may not exceed \$350,000.”).

17 <sup>9</sup> Compare Cal. Civ. Code § 3294, and *Adgate v. Robinson Ford Sales, Inc.*, 208 F.3d 220 (9th Cir. 2000) (“California law sets no specific limit on the ratio of punitive damages to compensatory damages . . . .”), with *Brown v. Reg’l W. Med. Ctr.*, 916 N.W.2d 590, 940 (Neb. 2018) (holding punitive damages claim was barred by Nebraska constitution), *Dailey v. N. Coast Life Ins. Co.*, 919 P.2d 589, 590 (Wash. 1996) (affirming longstanding view that punitive damages are contrary to Washington public policy, and available only with express legislative authorization), N.C. Gen. Stat. Ann. § 1D-25 (“Punitive damages awarded against a defendant shall not exceed three times the amount of compensatory damages or two hundred fifty thousand dollars (\$250,000), whichever is greater.”), Va. Code Ann. § 8.01-38.1 (“In no event shall the total amount awarded for punitive damages exceed \$350,000.”).

22 <sup>10</sup> See Dkt. No. 2219, Monsanto’s Letter Brief Regarding Jury Selection (describing Monsanto’s serious concerns regarding the impact of pretrial publicity on prospective jurors after just *one* California verdict, never mind the subsequent *two*—including the *Pilliod* verdict awarding damages in the billions).

25 <sup>11</sup> See Cal. Code Civ. P. § 36(a) (requiring that a Court must grant a preference motion made by a plaintiff over 70 years of age, with “a substantial interest in the action as a whole,” whose health condition requires a preference to prevent prejudicing that interest); *Fox v. Superior Court*, 230 Cal. Rptr. 3d 493, 497 (Ct. App. 2018) (“Where a party meets the requisite standard for calendar preference under subdivision (a), preference *must* be granted. No weighing of interests is involved.” (emphasis added)).

1 appropriate in some other Circuits,” which “could matter in close cases” like those in  
2 this MDL.<sup>12</sup>

3 The Court’s proposal, coupled with the developments in the trials to date, accordingly  
4 would allow the often-unique legal aspects and perspective of one state (and the federal circuit  
5 within which it sits) to distort unfairly a national litigation that spans 66 jurisdictions.

6 Accordingly, Monsanto submits that the better course is either to adopt the commonly  
7 used “first-in, first-out” approach that it suggested in the parties’ Joint Case Management  
8 Statement, Dkt. No. 3782 at 9-20,<sup>13</sup> or at least to focus MDL resources on other states for the  
9 next wave of cases. The Court has set the *Stevick* case for trial in February 2020 and has  
10 indicated a willingness to remand the *Giglio* case for trial in the Southern District of California,  
11 providing still more data from California through the MDL. Otherwise prioritizing cases from  
12 other states for the next two phases would allow trials in other jurisdictions more promptly and  
13 preserve the California cases to be worked up quickly in the future for later trials, after more  
14 cross-cutting information is gathered from trials in other jurisdictions. Further, and contrary to  
15 Plaintiffs’ suggestion, Monsanto does not expect that handling two states, such as Nebraska and  
16 North Carolina, in the first remand wave would increase the burden on the Court. Under this  
17 approach, as with the Court’s proposal to handle California and one other state of Monsanto’s  
18 choosing, the Court would have to apply the law of only two different states in the next remand  
19 wave. And the number of cases from Nebraska and North Carolina combined is far smaller than  
20 the number of cases from California.

21 \_\_\_\_\_  
22 <sup>12</sup> See PTO 45 at 8-9 (comparing *Wendell v. GlaxoSmithKline LLC*, 858 F.3d 1227, 1233-38 (9th  
23 Cir. 2017), and *City of Pomona v. SQM North America Corp.*, 750 F.3d 1036, 1043-49 (9th Cir.  
24 2014), with *In re Zolof (Sertraline Hydrochloride) Products Liability Litigation*, 858 F.3d 787,  
25 800 (3d Cir. 2017), and *McClain v. Metabolife International, Inc.*, 401 F.3d 1233, 1244-45 (11th  
26 Cir. 2005)).

27 <sup>13</sup> See Manual for Complex Litigation § 22.315 (“To obtain the most representative cases from  
28 the available pool, a judge should direct the parties to select test cases randomly . . . .”) (citing *In  
re Chevron U.S.A., Inc.*, 109 F.3d 1016, 1019 (5th Cir. 1997) (“A bellwether trial designed to  
achieve its value ascertainment function for settlement purposes or to answer troubling causation  
or liability issues common to a universe of claimants has as a core element representativeness—  
that is, the sample must be a randomly selected one of sufficient size so as to achieve statistical  
significance to the desired level of confidence . . . .”)).

1           Additionally, if the Court is to decide specific causation *Daubert* and summary judgment  
2 motions arising from states outside the Ninth Circuit,<sup>14</sup> the Court should at least apply other  
3 circuits' *Daubert* law to motions arising from jurisdictions within those Circuits, as the *Daubert*-  
4 decision appeals will occur in those circuits. Moreover, deciding *Daubert* motions “intertwined  
5 with summary judgment” inevitably will require the Court to apply causation standards from  
6 states outside the Ninth Circuit. It is more sensible for the Court to apply the *Daubert* standards  
7 with which those disparate state standards are interconnected in deciding, for example, whether  
8 certain expert testimony is relevant to causation.

9           Finally, and for all of the foregoing reasons, Monsanto submits that the Court should  
10 reject Plaintiffs' proposal to further exacerbate the California focus of this MDL by having the  
11 next two remand phases—spanning well over a year—consist solely of California cases.  
12 Monsanto also opposes Plaintiffs' remarkable suggestion that the Court recommend that all of  
13 the potential-California-law cases Plaintiffs chose to file in the Eastern District of Missouri and  
14 other federal districts be transferred to the state of Plaintiffs' residence—which, *for every one of*  
15 *those plaintiffs*, is California. *See infra* at II. Even setting aside that the decision whether to  
16 transfer a case is for the transferor court to make,<sup>15</sup> the Court should not sanction Plaintiffs'  
17 attempt at another round of forum shopping. These plaintiffs chose to file their lawsuits in  
18 Missouri—many as part of multi-plaintiff cases that the Court has correctly indicated should be  
19 severed. Recommending that all of these cases return to California would improperly turn this  
20 MDL into a single-state litigation for the foreseeable future.

21 \_\_\_\_\_  
22 <sup>14</sup> Monsanto continues to object to the Court's doing so, *see* 5/22/19 CMC Tr. at 106:22-107:4,  
23 and requests that the Court remand member cases before resolution of case-specific *Daubert* and  
24 other motions, for all of the reasons articulated in the Joint Case Management Statement, Dkt.  
25 No. 3782 at 13-16.

26 <sup>15</sup> *See In re Biomet M2A Magnum Hip Implant Prod. Liab. Litig.*, 357 F. Supp. 3d 1389, 1390  
27 (U.S. Jud. Pan. Mult. Lit. 2018) (“As the transferee judge noted in his suggestion of remand, the  
28 Panel is without authority to ‘redirect the remand’ to a different, non-originating court. Instead,  
any motion for change of venue must be made to the original transferor court following Section  
1407 remand. While the parties may view this process as cumbersome, since they agree  
that venue is proper in the proposed, non-originating districts, the clear terms of the statute afford  
the Panel no discretion as to where a transferred case must be remanded: the only destination  
allowed by Section 1407(a) is the ‘district from which it was transferred.’”)

## 1 1. Monsanto's Proposed CMO

2 a. Remand Wave 1<sup>16</sup>

3 Event	Date
4 PFSs due for any Plaintiffs who have not yet provided them, including all relevant authorizations	5 days from entry of order identifying cases for work-up
6 Plaintiff to provide any medical records in his/her possession and/or his/her counsel's possession to defense counsel	5 days from entry of order identifying cases for work-up
8 Deficiency letter(s) sent	4 business days from receipt of PFS
9 Deadline to cure PFS deficiencies. The parties may file letter briefs regarding any disputes about whether a deficiency exists.	7 days from receipt of deficiency letter
10 Close of fact discovery	August 16, 2019
11 Plaintiffs' expert reports due	August 20, 2019
12 Monsanto's expert reports due	September 3, 2019
13 Close of expert discovery	October 1, 2019
14 Monsanto's <i>Daubert</i> and summary judgment briefs due	October 7, 2019
15 Plaintiffs' oppositions and cross-motions due	October 18, 2019
16 Monsanto's oppositions/replies re: <i>Daubert</i> and summary judgment due	November 1, 2019
17 Plaintiffs' replies re: <i>Daubert</i> and summary judgment due	November 8, 2019
18 <i>Daubert</i> hearing/argument (if any)	November 25, 2019 (subject to the Court's availability)

## 19 b. Remand Wave 2

21 Event	Date
22 PFSs due for any Plaintiffs who have not yet provided them	21 days from entry of order identifying cases for work-up
23 Plaintiff to provide any medical records in his/her possession and/or his/her counsel's possession to defense counsel	21 days from entry of order identifying cases for work-up
24 Deficiency letter(s) sent	4 business days from receipt of PFS

27 <sup>16</sup> Monsanto is amenable to a less-compressed schedule, as Plaintiffs have proposed, but submitted the following CMO in light of the Court's instruction to propose a schedule that had the cases through *Daubert* briefing in November.

1	Deadline to cure PFS deficiencies. The parties may file letter briefs regarding any disputes about whether a deficiency exists.	7 days from receipt of deficiency letter
2	Close of fact discovery	February 10, 2020
3	Plaintiffs' expert reports due	February 17, 2020
4	Monsanto's expert reports due	March 2, 2020
5	Close of expert discovery	March 26, 2020
6	Monsanto's <i>Daubert</i> and summary judgment briefs due	April 17, 2020
7	Plaintiffs' oppositions and cross-motions due	May 8, 2020
8	Monsanto's oppositions/replies re: <i>Daubert</i> and summary judgment due	May 18, 2020
9	Plaintiffs' replies re: <i>Daubert</i> and summary judgment due	May 25, 2020
10	<i>Daubert</i> hearing/argument (if any)	June 22, 2020 (subject to the Court's availability)

## 11 II. PHASE 1 AND 2 CASES

12 As noted above, Plaintiff submits that the Court should remand cases applying California  
13 law before considering cases applying the law of other states. Monsanto objects to the remand of  
14 any additional California cases beyond *Giglio*, but to the extent the Court decides that the first  
15 remand phase should consist of cases from California and one other state, Monsanto requests that  
16 Nebraska be included in the first remand wave, and that the second remand wave consist of cases  
17 from North Carolina. Notwithstanding the parties' objections, the parties have listed below the  
18 cases in the MDL that are filed in federal courts in California, Nebraska, and North Carolina, as  
19 well as the other plaintiffs in the litigation that currently reside in those states (many of whom  
20 are parties to large multi-plaintiff cases in other jurisdictions).

21 Based on the information currently available (which at most consists of PFSs), Monsanto  
22 cannot currently determine whether California, Nebraska, or North Carolina law actually apply  
23 to these cases, and reserves all rights to address choice-of-law issues after fact discovery  
24 concludes. The charts below also do not include the cases in which motions to remand are  
25 currently pending before the Court; if those cases remain in federal court the numbers below  
26 would increase, particularly in California.

1           **A. California**

2           Cases filed in California district courts

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

<b>Plaintiff Name</b>	<b>Plaintiff State of Residence</b>	<b>Case Name</b>	<b>Current Cause</b>	<b>Transferor Court</b>
Carriere, Jerald	CA	Carriere, Jerald	3:18-cv-05778	CA - C.D.
Chavez, Armando Vargas	CA	Chavez, Armando Vargas	3:18-cv-04855	CA - C.D.
Graef, Shaun	CA	Graef, Shaun	3:19-cv-02316	CA - C.D.
Hernandez, Ines	CA	Hernandez, Ines	3:16-cv-05750	CA - C.D.
Johansing, Peter	CA	Johansing, Peter	3:16-cv-05751	CA - C.D.
McCall, Teri (individually and as successor in interest for the estate of Anthony McCall); David McCall; Paul McCall; Maggie McCall; Alicia Suarez	CA	McCall, Anthony	3:16-cv-05749	CA - C.D.
Russo, Matteo Anthony	CA	Russo, Matteo Anthony	3:16-cv-06024	CA - C.D.
Sanders, John D.	CA	Sanders, John D., et al.	3:16-cv-05752	CA - C.D.
Tanner, Frank	CA	Sanders, John D., et al.	3:16-cv-05752	CA - C.D.
Wooten, Karen, Harley Wooten III, Timothy Wooten, individually and on behalf of the Estate of Harley Wooten	CA	Wooten, Harley	3:17-cv-01735	CA - C.D.
Galvan, Paul	CA	Galvan, Paul	3:17-cv-00781	CA - E.D.
Mendoza, Yolanda	CA	Mendoza, Yolanda	3:16-cv-06046	CA - E.D.
Calderon, Jamie Alvarez	CA	Calderon, Jaime	3:19-cv-01630	CA - N.D.
Gebeyehou, Sium	CA	Gebeyehou,	3:16-cv-	CA - N.D.

		Sioum	05813	
Ramirez, Robert	CA	Ramirez, Robert	3:19-cv-02224	CA - N.D.
Stevick, Elaine	CA	Stevick, Elaine	3:16-cv-02341	CA - N.D.
Giglio, Emanuel	CA	Giglio, Emanuel	3:16-cv-05658	CA - S.D.
Harris, Anthony	CA	Harris, Anthony	3:17-cv-03199	CA - S.D.
Hernandez, Ruben	CA	Hernandez, Ruben	3:17-cv-07364	CA - S.D.

Other plaintiffs currently residing in California

<b>Plaintiff Name</b>	<b>Plaintiff State of Residence</b>	<b>Case Name</b>	<b>Current Cause</b>	<b>Transferor Court</b>
Sheppard, Christine	CA	Sheppard, Christine	3:16-cv-05650	HI - District of Hawaii
Anderson, Brian	CA	Acosta, Brenda, et al.	3:18-cv-01960	MO - E.D.
Arriola, Richard	CA	Arriola, Richard	3:19-cv-01758	MO - E.D.
Ashton, Brenda	CA	Ashton, Brenda, et al.	3:18-cv-03959	MO - E.D.
Balcom, Nancy (next of kin of Robert Balcom)	CA	Ashton, Brenda, et al.	3:18-cv-03959	MO - E.D.
Bare, Howard	CA	Angel, Albert, et al.	3:17-cv-05547	MO - E.D.
Barker, Kenneth	CA	Ashton, Brenda, et al.	3:18-cv-03959	MO - E.D.
Buckingham, Loretta (individually and as Administrate of the Estate of Kendle Barnett)	CA	Mitchell, Dorothy, et al.	3:18-cv-04786	MO - E.D.
Beaudet, David	CA	Beaudet, David, et al.	3:17-cv-06902	MO - E.D.



1	Belsey, Robert	CA	Marniella, Laurie, et al.	3:17-cv-05546	MO - E.D.
2	Bolden, Earnest	CA	Bolden, Earnest	3:18-cv-04785	MO - E.D.
3	Bordeaux, William	CA	Bordeaux, William	3:19-cv-00960	MO - E.D.
4	Brewster, John	CA	Brewster, John	3:19-cv-02382	MO - E.D.
5	Brooks, Dean	CA	Beaudet, David, et al.	3:17-cv-06902	MO - E.D.
6	Brown, Eric	CA	Ashton, Brenda, et al.	3:18-cv-03959	MO - E.D.
7	Campau, James	CA	Campau, James C.	3:19-cv-01358	MO - E.D.
8	Capo, Arthur	CA	Capo, Arthur	3:18-cv-07633	MO - E.D.
9	Castillo Torres, Ramro	CA	Ashton, Brenda, et al.	3:18-cv-03959	MO - E.D.
10	Castro, Rafael	CA	Ashton, Brenda, et al.	3:18-cv-03959	MO - E.D.
11	Cisneros, Jimmie	CA	Payes, Eugenio et al.	3:19-cv-02585	MO - E.D.
12	Cohn, Richard	CA	Ashton, Brenda, et al.	3:18-cv-03959	MO - E.D.
13	Doty, Bruce	CA	Doty, Bruce	3:19-cv-01566	MO - E.D.
14	Driscoll, Colleen	CA	Driscoll, Colleen	3:19-cv-01729	MO - E.D.
15	Emeterio, Roy	CA	Emeterio, Roy	3:19-cv-01738	MO - E.D.
16	Fink, Daniel	CA	Edwards, Myrlon, et al.	3:17-cv-07365	MO - E.D.
17	Follett, Tina	CA	Ashton, Brenda, et al.	3:18-cv-03959	MO - E.D.
18	Furnas, David	CA	Furnas, David	3:19-cv-01577	MO - E.D.
19	Furnice, Michael	CA	Beaudet, David, et al.	3:17-cv-06902	MO - E.D.
20	Garnier, Warren	CA	Bouzeanes, George et, al.	3:19-cv-00713	MO - E.D.
21	Gattuccio, Kathleen	CA	Gattuccio, Kathleen	3:19-cv-01760	MO - E.D.
22					
23					
24					
25					
26					
27					
28					

1	Gehring, Dina	CA	Ashton, Brenda, et al.	3:18-cv- 03959	MO - E.D.
2	Geisinger, Mason	CA	Ashton, Brenda, et al.	3:18-cv- 03959	MO - E.D.
3	Goskowitz, Randall	CA	Angel, Albert, et al.	3:17-cv- 05547	MO - E.D.
4	Hayes, Derril	CA	Beaudet, David, et al.	3:17-cv- 06902	MO - E.D.
5	Hodges, Terry	CA	Hodges, Terry	3:18-cv- 01699	MO - E.D.
6	Kay, Tiffany (next of kin of Madelyne Kay-Moore)	CA	Ashton, Brenda, et al.	3:18-cv- 03959	MO - E.D.
7	Kles, Pamela	CA	Ashton, Brenda, et al.	3:18-cv- 03959	MO - E.D.
8	Kofler, Kathleen	CA	Ashton, Brenda, et al.	3:18-cv- 03959	MO - E.D.
9	Lawrence, Tina (next of kin of John Lawrence)	CA	Ashton, Brenda, et al.	3:18-cv- 03959	MO - E.D.
10	Lee, Shirley	CA	Lee, Shirley	3:18-cv- 02939	MO - E.D.
11	Litter, Patrick	CA	Litter, Patrick	3:18-cv- 02418	MO - E.D.
12	Luff, Randy	CA	Beaudet, David, et al.	3:17-cv- 06902	MO - E.D.
13	Magee, Tracy	CA	Angel, Albert, et al.	3:17-cv- 05547	MO - E.D.
14	Malandrinos, Alexander P.	CA	Malandrinos, Alexander P.	3:19-cv- 02217	MO - E.D.
15	Mallard- Agbo, Margaret (next of kin of Dora Mallard)	CA	Ashton, Brenda, et al.	3:18-cv- 03959	MO - E.D.
16	Manning, Martin	CA	Manning, Martin	3:19-cv- 00380	MO - E.D.
17	Martinez, Jamie	CA	Berlin, Anthony, et al.	3:18-cv- 00815	MO - E.D.
18	Mendoza,	CA	Ashton,	3:18-cv-	MO - E.D.

1	Samuel		Brenda, et al.	03959	
2	Miller, Joanne	CA	Ashton, Brenda, et al.	3:18-cv- 03959	MO - E.D.
3	Moul, Robert	CA	Moul, Robert	3:19-cv- 01731	MO - E.D.
4	Nahale, Douglas	CA	Ashton, Brenda, et al.	3:18-cv- 03959	MO - E.D.
5	O'Brien, Aida	CA	O'Brien, Aida	3:18-cv- 03951	MO - E.D.
6	Payes, Eugenio	CA	Payes, Eugenio et al.	3:19-cv- 02585	MO - E.D.
7	Polanco, David	CA	Ashton, Brenda, et al.	3:18-cv- 03959	MO - E.D.
8	Pruett, Christopher	CA	Angel, Albert, et al.	3:17-cv- 05547	MO - E.D.
9	Rabbitt, Robert	CA	Berlin, Anthony, et al.	3:18-cv- 00815	MO - E.D.
10	Ramierz, Daniel	CA	Ashton, Brenda, et al.	3:18-cv- 03959	MO - E.D.
11	Randall, Michael	CA	Ashton, Brenda, et al.	3:18-cv- 03959	MO - E.D.
12	Rauh, Robert	CA	Bouzeanes, George et, al.	3:19-cv- 00713	MO - E.D.
13	Raygoza, Arturo	CA	Raygoza, Arturo	3:19-cv- 00929	MO - E.D.
14	Ricker, Brenda	CA	Angel, Albert, et al.	3:17-cv- 05547	MO - E.D.
15	Robinson, Fred	CA	Angel, Albert, et al.	3:17-cv- 05547	MO - E.D.
16	Rustan, Susan	CA	Ashton, Brenda, et al.	3:18-cv- 03959	MO - E.D.
17	Scully, Timothy	CA	Beaudet, David, et al.	3:17-cv- 06902	MO - E.D.
18	Simmons, Laurence	CA	Ashton, Brenda, et al.	3:18-cv- 03959	MO - E.D.
19	Smith, Kenneth	CA	Ashton, Brenda, et al.	3:18-cv- 03959	MO - E.D.
20	Smith, Joseph	CA	Ashton, Brenda, et al.	3:18-cv- 03959	MO - E.D.
21	Jennings, Amy (next of kin of Jim Voffee	CA	Ashton, Brenda, et al.	3:18-cv- 03959	MO - E.D.
22					
23					
24					
25					
26					
27					
28					

1	Smoot)				
2	Spansauer, Janelle	CA	Ashton, Brenda, et al.	3:18-cv- 03959	MO - E.D.
3	Swartz, Jane	CA	Ashton, Brenda, et al.	3:18-cv- 03959	MO - E.D.
4	Tanner, John	CA	Acosta, Brenda, et al.	3:18-cv- 01960	MO - E.D.
5	Terry, Michael	CA	Ashton, Brenda, et al.	3:18-cv- 03959	MO - E.D.
6	Trujillo, Benita	CA	Ashton, Brenda, et al.	3:18-cv- 03959	MO - E.D.
7	Veloz, Frank	CA	Ashton, Brenda, et al.	3:18-cv- 03959	MO - E.D.
8	Verdugo, Arthur	CA	Verdugo, Arthur	3:19-cv- 02066	MO - E.D.
9	Walker, Frances	CA	Walker, Frances	3:19-cv- 01724	MO - E.D.
10	Walker, Wayne	CA	Walker, Wayne	3:19-cv- 00120	MO - E.D.

13  
14 **B. Nebraska**

15 Cases filed in the District of Nebraska

16

17	<b>Plaintiff Name</b>	<b>Plaintiff State of Residence</b>	<b>Case Name</b>	<b>Current Cause</b>	<b>Transferor Court</b>
18	Dickey, Robert L.	NE	Domina, Larry E., et al.	3:16-cv- 05887	NE - District of NE
19	Domina, Larry E.	NE	Domina, Larry E., et al.	3:16-cv- 05887	NE - District of NE
20	Janzen, Royce D.	NE	Domina, Larry E., et al.	3:16-cv- 05887	NE - District of NE
21	Pollard, Frank	NE	Domina, Larry E., et al.	3:16-cv- 05887	NE - District of NE
22	Sanchez, Sabas	NE	Sanchez, Sabas	3:17-cv- 03377	NE - District of NE

23  
24 Other plaintiffs currently residing in Nebraska

25  
26

27	<b>Plaintiff Name</b>	<b>Plaintiff State of Residence</b>	<b>Case Name</b>	<b>Current Cause</b>	<b>Transferor Court</b>
28					

1	Garvel, Linda (surviving spouse of Lawrence Garvel)	NE	Garvel, Linda	3:17-cv- 03217	DE - District of DE
2					
3					
4	Bernt, Thomas C.	NE	Bernt, Thomas C.	3:19-cv- 02704	MO - E.D.
5	Bickford, Curt	NE	Bickford, Curt	3:19-cv- 01559	MO - E.D.
6	Damkroger, Douglas	NE	Hooks, Robert et, al.	3:19-cv- 00714	MO - E.D.
7					
8	Dugger, Theresa (individually and on behalf of Ulice Dugger, deceased)	NE	Dugger, Ulice	3:19-cv- 00006	MO - E.D.
9					
10					
11	Foster, Estate of Carl Foster (by and through surviving spouse Dorine Foster, on behalf of all legal heirs of Carl Foster)	NE	Foster, Carl	3:18-cv- 03548	MO - E.D.
12					
13					
14					
15					
16					
17	Magwire, Gene	NE	Brooks, John, et al.	3:18-cv- 03188	MO - E.D.
18					

19 **C. North Carolina**

20 Cases filed in North Carolina district courts

21	<b>Plaintiff Name</b>	<b>Plaintiff State of Residence</b>	<b>Case Name</b>	<b>Current Cause</b>	<b>Transferor Court</b>
22	Green, Tracy	NC	Green, Tracy	3:18-cv- 05238	NC - E.D.
23	Prince, William	NC	Prince, William	3:17-cv- 04737	NC - E.D.
24	Strickland, Johnny	NC	Strickland, Johnny	3:17-cv- 03201	NC - E.D.
25	Gatson,	NC	Gatson,	3:18-cv-	NC - M.D.
26					
27					
28					

Darryl		Darryl	05317	
Frady, Geneva	NC	Frady, Geneva	3:19-cv-2076	NC - W.D.
Logan, Jerry	NC	Logan, Jerry	3:18-cv-05239	NC - W.D.
Seidl, Randall Dean	NC	Seidl, Randall Dean	3:17-cv-00519	NC - W.D.

Other plaintiffs currently residing in North Carolina

<b>Plaintiff Name</b>	<b>Plaintiff State of Residence</b>	<b>Case Name</b>	<b>Current Cause</b>	<b>Transferor Court</b>
Hartman, Wayne	NC	Hartman, Wayne, et al.	3:17-cv-03219	DE - District of DE
Lawson, Johnny	NC	Hartman, Wayne, et al.	3:17-cv-03219	DE - District of DE
Banks, Cynthia	NC	Haney, Jerry, et al.	3:19-cv-00278	MO - E.D.
Beddington, Kenny	NC	Acosta, Brenda, et al.	3:18-cv-01960	MO - E.D.
Bouzeanes, George	NC	Bouzeanes, George et, al.	3:19-cv-00713	MO - E.D.
Ham, Richard	NC	Bouzeanes, George et, al.	3:19-cv-00713	MO - E.D.
Holden, Walter	NC	Haney, Jerry, et al.	3:19-cv-00278	MO - E.D.
Kennedy, Marvin	NC	Kennedy, Marvin	3:18-cv-06552	MO - E.D.
Lenna, Gary	NC	Acosta, Brenda, et al.	3:18-cv-01960	MO - E.D.
Marson, Robert	NC	Acosta, Brenda, et al.	3:18-cv-01960	MO - E.D.
Mason, Michael	NC	Acosta, Brenda, et al.	3:18-cv-01960	MO - E.D.
McRorie, Bertha	NC	McRorie, Bertha	3:18-cv-01110	MO - E.D.
Medlin, Roger	NC	Medlin, Roger	3:18-cv-05262	MO - E.D.
Morrison, Alvin F.	NC	Morrison, Alvin	3:18-cv-05261	MO - E.D.
Nicholson, Earnestine	NC	Acosta, Brenda, et al.	3:18-cv-01960	MO - E.D.

1	Peay, Betty	NC	Acosta, Brenda, et al.	3:18-cv- 01960	MO - E.D.
2	Raynor, Arlie	NC	Acosta, Brenda, et al.	3:18-cv- 01960	MO - E.D.
3	Sellers, Peggy	NC	Acosta, Brenda, et al.	3:18-cv- 01960	MO - E.D.
4	Smith, Larry A.	NC	Smith, Larry A.	3:18-cv- 05312	MO - E.D.
5	Spain, Winfred	NC	Acosta, Brenda, et al.	3:18-cv- 01960	MO - E.D.
6	Stringer, John	NC	Hartman, Charles, et al.	3:18-cv- 01089	MO - E.D.
7	Sumner, George	NC	Sumner, George	3:18-cv- 05490	MO - E.D.
8	Thompson, Kimberly B. (individually and on behalf of Joyce C. Thompson, deceased)	NC	Thompson, Kimberly	3:18-cv- 06026	MO - E.D.
9	Whitley, Lucinda	NC	Acosta, Brenda, et al.	3:18-cv- 01960	MO - E.D.
10	Wiseman, Patricia	NC	Wiseman, Patricia	3:18-cv- 05495	MO - E.D.
11	Grunwald, Gary	NC	Wiley, Lisa, et al.	3:18-cv- 06560	MO - W.D.

12 Executed this 29th day of May 2019.

13 */s/ Aimee Wagstaff*

14 Aimee H. Wagstaff (SBN 278480)  
15 **ANDRUS WAGSTAFF, PC**  
16 7171 W. Alaska Drive  
17 Lakewood, Colorado 80226  
18 Tel: (303) 376-6360  
19 Fax: (303) 376-6361  
20 aimee.wagstaff@andruswagstaff.com

21 **WEITZ & LUXENBERG, P.C.**

22 Robin L. Greenwald  
23 700 Broadway  
24 New York, New York 10003  
25 Tel: (212) 558-5802  
26 Fax: (646) 293-4921

21 */s/ Brian Stekloff*

22 Brian L. Stekloff (*pro hac vice*)  
23 (bstekloff@wilkinsonwalsh.com)  
24 Rakesh Kilaru (*pro hac vice*)  
25 (rkilaru@wilkinsonwalsh.com)  
26 **WILKINSON WALSH + ESKOVITZ**  
27 **LLP**  
28 2001 M St. NW  
10<sup>th</sup> Floor  
Washington, DC 20036  
Tel: 202-847-4030  
Fax: 202-847-4005

1 Email: rgreenwald@weitzlux.com

2 **THE MILLER FIRM LLC**

3 Michael J. Miller  
4 108 Railroad Avenue  
5 Orange, Virginia 22960  
6 Tel: (540) 672-4224  
7 Fax: (540) 672-3055  
8 mmiller@millerfirmllc.com

9 *Co-Lead Counsel for Plaintiffs*

**HOLLINGSWORTH LLP**

Eric G. Lasker (*pro hac vice*)  
(elasker@hollingsworthllp.com)  
1350 I St. NW  
Washington, DC 20005  
Tel: 202-898-5843  
Fax: 202-682-1639

**ARNOLD & PORTER KAYE SCHOLER**

Daniel Pariser (*pro hac vice*)  
(daniel.pariser@arnoldporter.com)  
601 Massachusetts Avenue, N.W.  
Washington DC 20001-3743  
Tel: (202) 942-6216

*Attorneys for Defendant*  
**MONSANTO COMPANY**  
(Additional Counsel Listed Below)

11  
12 /s/ \_\_\_\_\_

13 Brian L. Stekloff (*pro hac vice*)  
14 (bstekloff@wilkinsonwalsh.com)  
15 Rakesh Kilaru (*pro hac vice*)  
16 (rkilaru@wilkinsonwalsh.com)  
17 **WILKINSON WALSH + ESKOVITZ LLP**  
18 2001 M St. NW  
19 10<sup>th</sup> Floor  
20 Washington, DC 20036  
21 Tel: 202-847-4030  
22 Fax: 202-847-4005

23 Daniel Pariser (*pro hac vice*)  
24 (daniel.pariser@arnoldporter.com)  
25 **ARNOLD & PORTER KAYE SCHOLER**  
26 601 Massachusetts Avenue, N.W.  
27 Washington DC 20001-3743  
28 Tel: (202) 942-6216

Eric G. Lasker (*pro hac vice*)  
(elasker@hollingsworthllp.com)  
**HOLLINGSWORTH LLP**  
1350 I St. NW  
Washington, DC 20005  
Tel: 202-898-5843  
Fax: 202-682-1639

Michael X. Imbroscio (*pro hac vice*)



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

(mimbrosco@cov.com)  
COVINGTON & BURLING LLP  
One City Center  
850 10th St. NW  
Washington, DC 20001  
Tel: 202-662-6000

*Attorneys for Defendant*  
*MONSANTO COMPANY*