

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

CITY OF GREENVILLE, ILLINOIS, *et al.* )

Individually and on behalf of all )  
others similarly situated, )

Plaintiffs, )

v. )

Case No. 10-188-JPG

SYNGENTA CORP PROTECTION, )  
INC., and SYNGENTA AG, )

Defendants. )

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**PLAINTIFFS' MOTION FOR AN AMENDED SCHEDULING ORDER**

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Plaintiffs move this Court to amend the scheduling order entered on January 24, 2011 (Doc. 138) and enter an amended scheduling order as follows:

1. On July 20, 2010, the Court entered its Joint Report and Proposed Scheduling and Discovery Order (Class Action) (Doc. 71-1). The Court ordered initial interrogatories and requests to produce be served on opposing parties by September 1, 2010. The Court further ordered that initial disclosures pursuant to Federal Rules of Civil Procedure Rule 26(a) be made at the same time as the responses for the initial interrogatories and requests to produce.

2. On September 1, 2010, the Court entered an order extending the parties' deadline for serving initial interrogatories and requests to produce to November 1, 2010. (Doc. 84)



3. Plaintiffs timely served its initial interrogatories and requests to produce on Defendant Syngenta Crop Protection, Inc. ("SCPI") on November 1, 2010.

4. The parties jointly asked the Court to amend its initial scheduling order to allow the parties sufficient time to conduct discovery in light of the months expended completing jurisdictional discovery. (Doc. 137). The Court granted the joint motion and amended the scheduling order. (Doc. 138).

5. SCPI has not answered Plaintiffs interrogatories or requests to produce and has not made its initial disclosures pursuant to Federal Rules of Civil Procedure Rule 26(a). To date, SCPI has not complied with any of Plaintiffs' discovery requests except for those concerning the personal jurisdiction of Syngenta AG ("SAG"). No depositions of any parties have been taken except for those related to the personal jurisdiction of SAG.

6. Plaintiffs are seeking effectively a three month extension of the current schedule because of Defendant's delay in responding to Plaintiffs' discovery requests. Plaintiffs continue to seek the earliest available trial date, given the lack of discovery compliance on the part of the Defendant.

7. On April 26, 2011, counsel for SCPI told Plaintiffs' counsel that SCPI's answers to interrogatories and its initial disclosures would be produced by May 9, 2011, and that some documents would be produced in response to Plaintiffs' requests for production by May 18, 2011. *See affidavit of Christie R. Deaton, attached hereto as Exhibit 1, and incorporated herein.* If Defendant fails to meet



these production dates or if Defendant fails to timely complete its production of documents, Plaintiffs may have no choice but to seek an additional amendment to the scheduling order.

8. In contrast, Plaintiffs timely served their responses to discovery requests and their initial disclosures. To date, Plaintiffs have produced more than a 1.14 Million pages of documents.

9. Plaintiffs ask that the Court amend its scheduling order of January 24, 2011 (Doc. 138), and enter an amended scheduling order reflecting the deadlines contained within this motion.

10. Plaintiffs' depositions for discovery prior to Class Certification shall be taken by **November 1, 2011**.

11. Defendants' depositions for discovery prior to Class Certification shall be taken by **November 1, 2011**.

12. Expert witnesses for Class Certification, if any, shall be disclosed, along with a written report prepared and signed by the witness pursuant to Federal Rule of Civil Procedure 26(a)(2), and any document relied upon by the witness shall be produced and persons relied upon by the witness identified, as follows:

Plaintiffs' expert(s): **November 1, 2011**.

Defendants' expert(s): **December 1, 2011**.

Plaintiffs' rebuttal expert(s): **January 2, 2011**

13. Depositions of Class Certification expert witnesses must be taken by:

Plaintiffs' expert(s): **December 1, 2011**.



Defendants' expert(s): **January 2, 2012.**

Plaintiffs' rebuttal expert(s): **January 17, 2012**

14. Plaintiffs' Motion for Class Certification and Memorandum in Support shall be filed by **January 17, 2012**, and shall not exceed **40** pages.

15. Defendants' Memorandum in Opposition to Class Certification shall be filed by **February 16, 2012**, and shall not exceed **50** pages.

16. Plaintiffs' Reply Memorandum must be filed by **March 1, 2012**, and shall not exceed **25** pages.

17. All *Daubert* challenges shall be filed by **February 1, 2012**. All responses to *Daubert* challenges shall be filed by **March 1, 2012**. A hearing concerning *Daubert* challenges, if necessary, will be set by separate notice to be held fourteen days prior to the Class Certification hearing.

18. The Class Certification hearing will be set by separate notice.

19. Expert witnesses for trial, if any, shall be disclosed, along with a written report prepared and signed by the witness pursuant to Federal Rule of Civil Procedure 26(a)(2), and any documents relied upon by the witness shall be produced and persons relied upon by the witness identified as follows:

Plaintiffs' expert(s): **February 14, 2012.**

Defendants' expert(s): **March 14, 2012.**

Plaintiffs' rebuttal expert(s): **April 16, 2012.**

20. Depositions of trial expert witnesses must be taken by:

Plaintiffs' expert(s): **March 14, 2012.**



Defendants' expert(s): **April 16, 2012.**

Plaintiffs' rebuttal expert(s): **May 10, 2012.**

21. All discovery shall be completed by **May 10, 2012** (which date shall be no later than **115 days** before the first day of the presumptive trial month). Any written interrogatories or request for production served after the date set out in the Scheduling and Discovery Order shall be served by a date that allows the served parties the full 30 days as provided by the Federal Rules of Civil Procedure in which to answer or produce by the discovery cut-off date. If a witness was deposed during the period for class discovery, the witness may be deposed a second time only with leave of the Court.

22. All dispositive motions shall be filed by **May 24, 2012** (which date shall be no later than **100 days** before the first day of the presumptive trial month). Dispositive motions filed after this date will not be considered by the Court.

23. The parties may request the Court to extend the presumptive trial month and the dates set forth herein accordingly if the scope and/or complexity of this putative class action become more expansive than originally contemplated.

Respectfully submitted,

/s/ Stephen M. Tillery  
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CERTIFICATE OF SERVICE

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I hereby certify that on this 28<sup>th</sup> day of April, 2011, I electronically filed the foregoing Joint Motion for an Amended Scheduling Order with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorneys of record.

By: /s/ Stephen M. Tillery  
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AFFIDAVIT OF CHRISTIE R. DEATON

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I, Christie R. Deaton, being first duly sworn upon my oath, depose and state as follows:

1. I certify that the statements set forth in this instrument are true and correct. I make the following statements based on my personal knowledge and if called, I could competently testify to the matters stated herein.

2. On November 1, 2010, Plaintiffs served their interrogatories and requests for production of documents.

3. On November 30, 2010, counsel for Syngenta Crop Protection, Inc. ("SCPI"), Kurtis Reeg, sent an email to Plaintiffs' counsel Stephen Tillery asking for a 30 day extension of time in responding to Plaintiffs' discovery requests so that SCPI could provide "more appropriate, complete responses." *See email*



correspondence from Kurtis B. Reeg to Stephen Tillery dated November 30, 2010, attached hereto as Exhibit 1, and incorporated herein. Neither I nor the other Plaintiffs' counsel objected to this extension.

4. On January 19, 2011, I was part of a conference call with SCPT's attorneys Michael Pope and Chris Murphy. During the call, Mr. Murphy told me that SCPI would provide complete responses to Plaintiffs' interrogatories and requests for production of documents by the end of March 2011.

5. On March 16, 2011, Holland Tahvonen and I had a phone conversation concerning discovery issues. Ms. Tahvonen told me that Syngenta Crop Protection, Inc. would provide complete responses to interrogatories and requests for production of documents before the end of April 2011.

6. On April 21, 2011, Kurtis Reeg and I had a phone conversation to discuss discovery issues related to this case and *Holiday Shores Sanitary Dist., et al. v. Syngenta Crop Protection, Inc., et al.* Mr. Reeg informed me that he did not know the date on which SCPI would respond to Plaintiffs' interrogatories and requests for production, nor did he know the date on which SCPI would serve its initial disclosures. Mr. Reeg further informed me that no document collection had been conducted from SCPI since February 2010. Mr. Reeg said that he would provide additional information the following week.

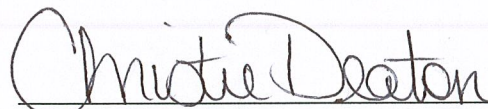
7. On April 26, 2011, I was part of a conference call with SCPT's counsel Chris Murphy and Holland Tahvonen. During this call, Mr. Murphy told me that Syngenta Crop Protection, Inc. would answer Plaintiffs' interrogatories and produce



its initial disclosures by May 9, 2011, and would produce documents collected through February 2010 by May 18, 2011. Mr. Murphy confirmed that no document collection had been conducted from SCPI since February 2010, and he said that he did not know when additional documents would be collected from SCPI in order to fully respond to the discovery requests made in this litigation. Mr. Murphy also said that he did not know when SCPI's response to Plaintiff's' requests for production would be complete. Finally, Mr. Murphy said that he did not know when SCPI would produce a privilege log.

I declare under penalty of perjury under the laws of the United States of America that the forgoing is true and correct.

Executed on Thursday, April 28, 2011, in St. Louis, Missouri.



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