

STATE OF MINNESOTA
COUNTY OF HENNEPIN

In re: Syngenta Litigation

This Document Relates to: ALL ACTIONS

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

Case Type: Civil Other
Hon. Thomas M. Sipkins

FILE NO. 27-CV-15-3785

**ORDER APPOINTING
SPECIAL MASTER**

The above-entitled matter came on for an initial scheduling conference before the Honorable Thomas M. Sipkins, Judge of District Court, on July 31, 2015.

Lewis A. Remele, Jr., Francisco Guerra, IV, William R. Sieben, Daniel E. Gustafson, and Robert K. Shelquist are the Lead and Liaison Counsel for Plaintiffs. Michael D. Jones, Edwin J. U, David T. Schultz, and D. Scott Aberson are the Lead and Liaison Counsel for Defendants.

This consolidated matter includes over 1,800 cases, parties and counsel located throughout the country, and claims involving international matters. It is likely that discovery will be extensive and complex with privilege claims and various other disputes. A Special Master would conserve judicial resources and aid in the efficient resolution of any discovery disputes. Based on the amount of potential damages sought, the imposition of additional expenses for a Special Master is justified. Under the circumstances, the appointment of a Special Master to resolve these disputes and to hold periodic status conferences with the parties and to assist the parties, as needed, to resolve disputed issues on a meet-and-confer basis is reasonable and necessary.

In Pretrial Order #1 dated July 7, 2015 the Court stated its intent to appoint Judge Van de North (ret.) as a Special Master. He was present and introduced at the July 31, 2015 pretrial. The Court gave the parties notice, provided an opportunity to be heard, and received no objection to the appointment.

Based on all the files, records and proceedings herein, the Court makes the following:

ORDER

IT IS HEREBY ORDERED THAT:

Appointment and Authority

1. In accordance with Rule 53 of the Minnesota Rules of Civil Procedure, and with the consent of the parties, John B. Van de North, Jr., Esq., a former Ramsey County District Court Judge, is hereby appointed as Special Master for the purpose of resolving discovery issues among the parties as they may arise, to consider all claims of privilege, and for such other non-dispositive matters as may be referred to the Special Master by the Court.

2. The Special Master's duties may be expanded with the consent of the parties. Any party who wishes to present issues outside of discovery disputes for the Special Master's consideration shall first submit a brief written statement to the Court describing the issue and argument in support of the request. A party objecting to a request shall submit a written response within 5 days of the date of the request. Otherwise, the Court will assume the request is unopposed. Thereafter, the Court will determine whether the issue shall be referred to the Special Master.

3. The Special Master shall have the rights, powers, and duties set forth in Rule 53. He may adopt procedures that are consistent with Rule 53 and the other Orders of this Court when deciding discovery disputes. He may take all appropriate measures to fairly and efficiently perform the assigned duties.

4. The Special Master is subject to any limitations established in Rule 53. He shall not act as an advocate, representative, fiduciary, or counsel for any party and has no formal coercive authority to compel the making of any agreement or the granting of any concession.

Procedures

5. The Special Master has authority to regulate all proceedings before him. He may set briefing schedules, request oral arguments, conduct hearings, and order further written submissions as he deems necessary.

6. The Special Master may schedule and hold periodic status conferences. These will be held in Courtroom C-1055 in the Hennepin County Government Center unless otherwise noticed.

7. If presiding over an evidentiary hearing, the Special Master may exercise the power of this Court to compel, take, and record evidence.

8. Unless waived by the parties, hearings before the Special Master shall be transcribed by a court reporter at the expense of the parties.

9. The Special Master may confer with the Court *ex parte* as to all matters assigned to the Special Master. He may not communicate *ex parte* with a party or counsel without consent of the opposing parties' counsel. He is also authorized to communicate with Magistrate Judge James O'Hara of the United States District Court for the District of Kansas, regarding this matter and *In re: Syngenta AG MIR Corn Litigation*, MDL No. 2591.

Reports

10. The Special Master shall make written orders, including findings of fact, conclusions of law, or memoranda, with respect to all matters presented to him by the parties. He shall issue any such orders within 30 days of the date disputed issues are fully submitted to him.

11. The Special Master shall have authority to compel enforcement of his orders. He may, by order, impose upon a party any non-contempt sanction provided by Rule 37 or Rule 45, and may recommend to the Court a contempt sanction against a party and sanctions against a non-party.

12. The Special Master shall serve all orders on the Lead and Liaison Counsel for Plaintiffs and Defendants and file them with the Court. If any order or report contains matters deemed confidential, it shall be filed under seal until further order of the Court.

13. Unless otherwise authorized by the undersigned, any orders issued by the Special Master shall be final without further review by this Court. The parties may file objections and move the Court to take action on a Special Master's order, report, or recommendation in accordance with Rule 53.07. Orders regarding discovery shall be effective as an Order of this Court and shall be appealable to an appellate court as allowed by the Minnesota Rules of Civil Appellate Procedure.

Fees and Expenses

14. Compensation at the rate of \$500.00 per hour shall be paid to the Special Master on a periodic basis by the parties, together with reimbursement for reasonable expenses incurred.

15. Plaintiffs and Defendants shall each pay a 50% share of the Special Master's fees and other costs related to the proceedings before him. Payments shall be made within 30 days of mailing or e-mailing of invoice to Liaison Counsel. Objections, if any, shall be made directly to the undersigned within 14 days of receipt of the invoices or will be deemed waived.

Other Provisions

16. The Special Master shall preserve until the conclusion of this matter, including the expiration of all appeals periods, the following: (a) all billing records; (b) all formal written decisions; and (c) all documents received from the parties.

17. This Order may be amended by the Court and shall be amended to conform to any future amendments to the Minnesota Rules of Civil Procedure relating to the subject matter of this Order.

18. Failure to comply with any part of this Order shall subject parties and non-parties under this Order to appropriate sanctions including assessment of costs against the delinquent party, dismissal, or other relief the Court may deem appropriate.

19. The Special Master's appointment shall become effective upon the Special Master filing an affidavit that he does not have a conflict of interest that would be grounds for disqualification or that the parties have waived any potential conflicts of interest in accordance with Rule 53.01(b) and Rule 53.02(c).

BY THE COURT:

Dated: 8-27-2015



Thomas M. Sipkins
Judge of District Court