

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: ROUNDUP PRODUCTS
LIABILITY LITIGATION

MDL No. 2741
Case No. 16-md-02741-VC

This document relates to:
ALL ACTIONS

**PRETRIAL ORDER NO. 28:
ORDER TO SHOW CAUSE;
ORDER RE DE-DESIGNATION**

Re: Dkt. Nos. 415, 416

The papers filed by both sides in connection with Monsanto's motion for emergency relief strongly suggest that Brent Wisner of Baum Hedlund, and perhaps the entire leadership team for the plaintiffs, acted in bad faith by posting the disputed documents online before obtaining a ruling on a live dispute about whether those documents could be disclosed consistent with this Court's prior rulings. Putting aside the question of whether releasing the documents violated this Court's orders, releasing the documents under these particular circumstances appears at least to have violated the requirement that lawyers work with opposing counsel in good faith. Therefore, Baum Hedlund is ordered to show cause why it should not be removed from the leadership structure in this case, or otherwise sanctioned monetarily. In addition, co-lead counsel are ordered to show cause why they should not be replaced as a result of their involvement in Baum Hedlund's conduct. Responses to the order to show cause must be filed by August 14, 2017. Any further response by Monsanto must be filed by August 17, 2017. The Court will hear argument on the order to show cause on August 24, 2017 at 10 am.

Between now and the hearing, the plaintiffs and their counsel must file a formal motion

for de-designation before making public any document or information that is currently subject to a confidentiality designation under the terms of the parties' protective order. This order supersedes the protective order previously stipulated to by the parties. At the hearing, the parties should be prepared to discuss how to handle the public disclosure of documents going forward. The Court is tentatively inclined to require the plaintiffs to initiate de-designation requests by filing a motion with this Court, after which a special master (hired at the plaintiffs' expense) will review the plaintiffs' motion to determine whether the disputed documents are relevant to the general causation phase of this litigation.

The Court will, to the extent necessary, address the issues raised in the plaintiffs' motion for clarification at the hearing on the order to show cause. *See* Dkt. No. 415. The motion is therefore terminated without prejudice to being renewed after the August 24 hearing if the plaintiffs (or Monsanto) require further clarification about the impact of this Court's earlier pretrial orders.

IT IS SO ORDERED.

Dated: August 9, 2017



VINCE CHHABRIA
United States District Judge