

SOMACH SIMMONS & DUNN  
A Professional Corporation

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5 Attorneys for Plaintiffs James Kotrous

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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA

11 JAMES KOTROUS, individually and doing  
business as THE MATTRESS FACTORY,

12 Plaintiffs,

13 v.

14 GOSS-JEWETT COMPANY OF NORTHERN  
15 CALIFORNIA, INC., a California corporation;  
ESTATE OF ROBERT LAMANET,  
16 individually and as an officer of GOSS-  
JEWETT COMPANY; STEVEN LAMANET,  
17 individually and as an officer of GOSS-  
JEWETT COMPANY; MICHAEL LAMANET,  
18 individually and as an officer of GOSS-  
JEWETT; ROSALIE A. ANSELMO and  
19 KAREN L. LILENTHAL, as Co – Trustees  
under that certain document entitled “The  
20 Edward A. Anselmo and Rosalie A. Anselmo  
1992 Revocable Trust,” dated December 21,  
21 1992; BAYER CROPSCIENCE INC., a New  
York corporation,

22 Defendants.

Case No. CIV. S-02-1520 FCD JFM

STIPULATION AND ORDER

Trial Date: February 1, 2011  
Time: 9:00 am  
Courtroom: 2  
Judge: Frank C. Damrell, Jr.  
Filing Date: July 15, 2002

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24 AND RELATED CROSS-ACTIONS.  
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1 On March 11, 2010, the parties conducted a VDRP mediation session under Civil Local  
2 Rule 271. Through this mediation session, the parties tentatively reached a global settlement  
3 potentially disposing of all the claims asserted in this action. The parties are currently engaged in  
4 preparing the necessary documents to finalize the agreement.

5 In light of this agreement, IT IS HEREBY STIPULATED by and between the parties  
6 hereto as follows:

7 Whereas plaintiffs James Kotrous individually and doing business as The Mattress  
8 Factory (Kotrous) commenced this action in July 2002;

9 Whereas defendant and cross-defendant Bayer CropScience Inc. (Bayer) filed three  
10 motions for summary judgment, or alternatively, summary adjudication against: (1) Kotrous and  
11 defendants; (2) defendants and cross-claimants Michael Lamanet, Stephen Lamanet, Goss-Jewett  
12 Company of Northern California, Inc. (collectively Goss-Jewett); and,(3) defendants and cross-  
13 claimants Rosalie A. Anselmo and Karen L. Lilienthal, Co-Trustees of the “The Edward A.  
14 Anselmo and Rosalie A. Anselmo 1992 Revocable Trust” (Anselmo parties) on January 12 and  
15 14, 2010;

16 Whereas Goss-Jewett filed a motion to continue the hearing on Bayer’s motion in order to  
17 conduct additional discovery, which was joined by the Anselmo parties;

18 Whereas Michael Lamanet and Stephen Lamanet filed a motion to amend the Court’s Pre-  
19 Trial Scheduling Order to enable them to file motions for summary judgment against the  
20 cross-claims of Bayer, Joseph Ramage, and Ramage Environmental;

21 Whereas other parties filed various other motions for summary judgment and/or motions  
22 to strike;

23 Whereas the Court granted Goss-Jewett’s motion to continue the hearing on Bayer’s  
24 motions for summary judgment to allow Goss-Jewett to take certain depositions pursuant to  
25 Rule 56(f) of the Federal Rules of Civil Procedure;

26 Whereas the Court ordered that said depositions shall be completed within 60 days of the  
27 date of its order, i.e., by no later than April 19, 2010;

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1           Whereas the deposition of Duane Comstock is noticed for March 19, 2010, the deposition  
2 of Katherine Wuelzer is noticed for March 22, 2010, the deposition of Kelly Darnell is noticed for  
3 March 23, 2010, and the deposition of Bayer's Rule 30(b)(6) witness is noticed for March 26,  
4 2010;

5           Whereas the parties tentatively reached a global agreement potentially disposing of all of  
6 the claims in this action on March 11, 2010;

7           THE PARTIES HEREBY STIPULATE AND AGREE, through their counsel of record,  
8 that:

9           1.       The above-referenced depositions shall be cancelled;

10          2.       The deadline to file documents disposing of this action shall be April 14, 2010,  
11 absent a showing of good cause to extend this date; and

12          3.       In the event the parties fail to completely dispose of this action by April 14, 2010,  
13 Goss-Jewett shall complete the discovery permitted by this Court's February 17, 2010 order  
14 within 30 days, i.e., by no later than May 14, 2010.

15          4.       To further support its motions, Bayer may file and serve amended memoranda and  
16 any supporting evidence, addressing the further discovery, no later than May 21, 2010 in response  
17 to which Goss-Jewett, the Anselmo parties, and Kotrous may file and serve amended oppositions  
18 no later than June 4, 2010;

19          5.       Bayer's replies shall be filed and served no later than June 11, 2010 and the  
20 hearing on these matters shall take place on or after June 18, 2010;

21          6.       The hearing on Michael Lamanet and Stephen Lamanet's motion to amend the  
22 Court's Status (Pre-Trial Scheduling) Order, currently scheduled for April 9, 2010, shall be taken  
23 off calendar until further notice from the Court; and,

24          7.       All pending motions filed by other parties shall be taken off-calendar until further  
25 notice from the Court.

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IT IS SO STIPULATED.

DATED: \_\_\_\_\_

SOMACH, SIMMONS & DUNN

By \_\_\_\_\_ /s/  
Michael Vergara  
Attorneys for James Kotrous, individually  
and doing business as The Mattress Factory

DATED: \_\_\_\_\_

EDGCOMB LAW GROUP

By \_\_\_\_\_ /s/  
William D. Marsh  
Attorneys for Bayer CropScience Inc.

DATED: \_\_\_\_\_

SCHARFF, BRADY & VINDING

By \_\_\_\_\_ /s/  
Jeffory L. Scharff  
Attorneys for Rosalie A. Anselmo, Karen  
Lilienthal, Albert Anselmo, Eleanor Anselmo,  
Dave Develaar and Linda Davelaar

DATED: \_\_\_\_\_

GREVE, CLIFFORD, WENGEL & PARAS, LLP

By \_\_\_\_\_ /s/  
Gary L. Vinson  
Attorneys for Kleinfelder, Inc.

DATED: \_\_\_\_\_

NOLEN OWENS

By \_\_\_\_\_ /s/  
Stephen W. Owens  
Attorneys for Ramage Environmental and Joseph  
Ramage

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DATED: \_\_\_\_\_

WILSON, ELSER, MOSKOWITZ, EDELMAN and  
DOCKER

By         /s/          
Emily M. Weissenberger  
Attorneys for RAH Environmental

DATED: \_\_\_\_\_

BRYDON, HUGO & PARKER

By         /s/          
Roland Thé  
Attorneys for Goss-Jewett Company of Northern  
California, Inc., Michael Lamanet, and Steven  
Lamanet

**IT IS SO ORDERED.**

DATED: March 29, 2010



FRANK C. DAMRELL, JR.  
UNITED STATES DISTRICT JUDGE