

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

TIMM ADAMS, et al.,)	
)	Civ. No. 03-0049-E-BLW
Plaintiffs,)	
)	
v.)	MEMORANDUM DECISION
)	AND ORDER RE: DUPONT
)	MOTION TO EXCLUDE
UNITED STATES OF AMERICA,)	ECONOMIC AND FINANCIAL
)	TESTIMONY FROM NON-
)	BELLWETHER PLAINTIFFS
et al.,)	
)	
Defendants.)	
_____)	

INTRODUCTION

The Court has before it DuPont’s motion to exclude financial or economic evidence regarding the non-bellwether plaintiffs. For the reasons expressed below, the Court grants the motion.

ANALYSIS

DuPont moves to exclude financial or economic evidence regarding the non-bellwether plaintiffs. For example, non-bellwether Steve Young plans to testify

that “he is no longer in business because of the problems experienced with Oust.”

See Plaintiffs’ Brief at p. 98.

In an earlier decision, the Court ruled that the non-bellwether’s could testify about crop damage as part of plaintiffs’ argument that damage was widespread. At the same time, however, the Court ruled that no discovery would be allowed on the non-bellwethers’ economic or financial losses because they are not pursuing their claims here. Such testimony was irrelevant to any issue in this trial, and was not necessary to show the widespread geographical spread of the crop damage.

Moreover, it threatened to expand discovery – and the trial itself – to an unacceptable degree. Having barred inquiry into such testimony, it would now be unfair for the Court to admit such testimony at trial.

Plaintiffs argue that they produced the information on the non-bellwethers’ financial situation in discovery, so there is no unfairness. Regardless, the defendants rightly were not preparing to challenge the material provided, and that is the source of the unfairness.

Accordingly, the Court will grant the motion.

ORDER

In accordance with the Memorandum Decision set forth above,

NOW THEREFORE IT IS HEREBY ORDERED, that the motion to exclude (docket no. 941, part 26) is GRANTED to the extent it seeks to exclude all testimony of non-bellwethers relating in any way to their economic or financial losses or hardships.



DATED: **May 6, 2009**

A handwritten signature in black ink that reads "B. Lynn Winmill". The signature is written in a cursive style and is positioned above a horizontal line.

Honorable B. Lynn Winmill
Chief U. S. District Judge