

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BOARD OF REGENTS OF THE) 4:04CV3356
UNIVERSITY OF NEBRASKA,)

Plaintiff,)

vs.)

TRIAL ORDER

BASF CORPORATION,)

Defendant,)

and)

MONSANTO COMPANY,)

Intervening Plaintiff,)

and)

SYNGENTA CROP PROTECTION,)
INC.,)

Intervening Defendant.)

To assist the parties regarding the procedures that will be followed for the non-jury trial of this complex matter,

IT IS ORDERED that:

1. Each party may submit a trial brief. Trial briefs may be submitted no later than Monday, November 10, 2008. It will be most helpful if the trial briefs concentrate on simplifying the issues. Keep in mind that the undersigned has never belonged to Mensa. In that regard, and given the short attention span of the reader, no trial brief shall exceed 20 pages. Proposed findings of fact

and conclusions of law and post-trial briefs will be submitted following trial on a schedule to be proposed and agreed upon by counsel.

2. BASF and then Syngenta will present evidence first, to be followed by the University and then Monsanto. BASF and Syngenta shall have a total of 32.5 hours to be allocated among themselves to conduct opening statements, direct examination, cross examination, and closing argument. One of the lawyers for BASF will be the timekeeper for this group and shall announce the time used at the end of each day. The University and Monsanto shall have a total of 32.5 hours to be allocated among themselves to conduct opening statements, direct examination, cross examination, and closing argument. One of the lawyers for the University will be the timekeeper for this group and shall announce the time used at the end of each day. The undersigned will not keep time.¹
3. Trial will start at 8:30 AM each morning and conclude at 5:00 PM, with 15-minute breaks in the morning and afternoon. Lunch breaks will generally be held between 12:00 noon and 1:30 PM to allow the undersigned to conduct criminal matters over the noon hour.
4. The parties have requested a court reporter (rather than the digital audio recording system that the undersigned typically uses), and the parties have also requested “daily copy.” Those requests are granted *provided* that the parties reach a mutually acceptable agreement with the Court’s staff court reporter, Sue DeVetter, and *further provided* that the parties pay for the cost of those services. Counsel shall contact Sue DeVetter at one of the following telephone numbers: home 712-256-7123, cell 402-212-9482, and office 402-661-7309.
5. The undersigned will liberally grant leave to “exceed the scope,” but counsel

¹Except on the dance floor.

shall advise each other of any intention to seek such relief before a witness testifies.

6. Within reason, the undersigned will allow testimony about “this is what we meant when we were negotiating the contract.”
7. It will not be necessary to “color code” depositions.
8. Should the parties decide to settle this matter at any time, I would not be upset.
9. My chambers shall provide a copy of this order to Magistrate Judge Piester, Sue DeVetter, and Colleen Beran.

November 3, 2008.

BY THE COURT:
s/ Richard G. Kopf
United States District Judge