

IN THE CIRCUIT COURT
THIRD JUDICIAL CIRCUIT OF ILLINOIS
MADISON COUNTY

ADMITTED FOR FILING
JUL 18 2011
CLERK OF COURT

HOLIDAY SHORES SANITARY DISTRICT,)
et al.)
)
Plaintiff,)
)
v.)
)
SYNGENTA CROP PROTECTION, INC., AND)
GROWMARK, INC.,)
)
Defendants.)

Cause No. 2004-L-710

**OBJECTIONS TO PLAINTIFFS' SUBPOENAS
BY CERTAIN AGRICULTURAL CHEMICAL DEALERS AND APPLICATORS**

C & L Holzwarth, Inc., Dotterer Farms, Inc., Effingham Equity, Elkhart Fertilizer Service, Flanagan Fertilizer Company, Mike Greleck (served as "Pioneer Seed Dealer"), Lake Fork Fertilizer Service, Leone Grain & Supply Inc., Stark Agriculture Services, Inc. and Woolsey Brothers Farm Supply Inc. (the "Companies") have reviewed the requests in the subpoenas served upon their employees or managers in this case and object as follows:

GENERAL OBJECTIONS

A. In general, the timing on the deposition and production of documents is unreasonable. These subpoenas have been served between June 24, 2011 and July 11, 2011. The first deposition is scheduled for South Central FS, Inc. is July 21, 2011 and for Akron Services, Inc. is August 5, 2011, and the productions are due the same day. The Companies and their employees are in their busiest season. In some instances, planting and spraying may still be on going.

B. Additionally, these subpoenas, while asking for company records, were not served on the Companies themselves, but were instead served on various employees. Most of these

employees do not have custody or control of the requested records. Additionally, the records, to the extent they exist, belong to the Company and not the individual employees.

C. The checks sent with the subpoenas are not sufficient to cover the cost of copying the documents requested by plaintiffs. Plaintiffs must bear the cost of copying the records.

D. The requests may call for documents or information protected by the Attorney-Client Privilege, Work Product Doctrine, or Joint Defense Privilege.

E. The ten year time period for records requested by the subpoena is unreasonable, overbroad and unduly burdensome.

F. The Companies object to depositions proceeding at their facilities.

G. At least one subpoena respondent has no responsive documents.

1. All documents regarding each purchase by you of any atrazine-containing product within the last ten years, including but not limited to all records of the date of the purchase, the name, address and telephone number of the seller, and the identity (including but not limited to EPA Registration Number and brand name) and quantity of the product purchased.

Objection: The General Objections are incorporated by reference as if fully stated here. The Companies objects to this request as unduly burdensome and overbroad. The Companies are just starting their investigations, but do not believe that ten years of purchase documents or data are even available. This request also asks for "all" documents, which would encompass paper records as well as electronic records that may exist. This request also seemingly would include electronic mail, which would be overly burdensome for the Companies to produce. The Companies also objects on the ground that this request calls for confidential, proprietary or trade secret information. The Companies understand that there is a Protective Order in this case but may require further protections for its purchase data.

2. All documents that any state or federal law or regulation concerning restricted-use pesticides required you to collect or keep in connection with each purchase by you of any atrazine-containing-product within the last ten years.

Objection: The General Objections are incorporated by reference as if fully stated here.

This request is unduly burdensome and calls for a legal conclusion.

3. All documents regarding each sale by you of any atrazine-containing product within the last ten years, including but not limited to all records of the date of the sale, the name, address and telephone number of the buyer, the identity of the product sold (including but not limited to the identity of the manufacturer, dealer or distributor from which the product was purchased, the EPA Registration Number and the brand name), the quantity of the product sold, the location at which the product was to be applied, and the rate at which and method by which the product was to be applied.

Objection: The General Objections are incorporated by reference as if fully stated here.

The Companies object to this request as unduly burdensome and overbroad. The Companies are just starting their investigations, but do not believe that ten years of sales documents or data is even available. This request also asks for "all" documents, which would encompass paper records as well as electronic records that may exist. This request also seemingly requests electronic mail, which would be overly burdensome for the Companies to produce. The Companies also object on the ground that this request calls for confidential, proprietary or trade secret information. The Companies also object on the ground that this request calls for private customer information that may be protected by various laws. The Companies understand that there is a Protective Order in this case but may require further protections.

4. All documents that any state or federal law or regulation concerning restricted-use pesticides required you to collect or keep in connection with each sale by you of any atrazine-containing-product within the last ten years.

Objection: The General Objections are incorporated by reference as if fully stated here.

This request is unduly burdensome and calls for a legal conclusion.

5. All documents regarding each application by you of any atrazine-containing product within the last ten years, including but not limited to all records of the date of the application, the name, address and telephone number of the person who performed the application, the identity of the product applied (including but not limited to the identity of the manufacturer, dealer or distributor from

which the product was purchased, the EPA Registration Number and the brand name), the quantity of the product applied, the rate of application, the method of application, the location of the application, and the name, address and telephone number of the person or entity for whom the application was performed.

Objection: The General Objections are incorporated by reference as if fully stated here. The Companies object to this request as overbroad and unduly burdensome. The Companies have varying numbers of employees who hold applicator or operator licenses, any one of whom could have applied atrazine or an atrazine-containing product. The Companies also object on the ground that this request calls for confidential, proprietary or trade secret information. The Companies also object on the ground that this request calls for private customer information that may be protected by various laws. The Company understands that there is a Protective Order in this case but may require further protections.

6. All documents that any state or federal law or regulation concerning restricted-use pesticides required you to collect or keep in connection with each application by you of any atrazine-containing-product within the last ten years.

Objection: The General Objections are incorporated by reference as if fully stated here. This request is unduly burdensome and calls for a legal conclusion.

7. All documents and information regarding your or your customers' training, registration, licensing or certification to formulate, distribute, sell, purchase or apply atrazine-containing products.

Objection: The General Objections are incorporated by reference as if fully stated here. The companies object to this request because it is not bound by any time period and it is overbroad.

8. All written warnings, instructions and other product information regarding atrazine or any atrazine-containing product that you have received from any manufacturer, distributor or dealer of such products within the last ten years.

Objection: The General Objections are incorporated by reference as if fully stated here. The companies object to this request because warnings, instructions and product information are publicly available and are as available to the plaintiffs as they are to the companies.

Dated: July 14, 2011

**C & L Holzwarth, Inc., Dotterer Farms, Inc.,
Effingham Equity, Elkhart Fertilizer Service,
Flanagan Fertilizer Company, Mike Greck,
Lake Fork Fertilizer Service, Leone Grain &
Supply Inc., Stark Agriculture Services, Inc. and
Woolsey Brothers Farm Supply Inc.**

By: 

One of their Attorneys

Denise A. Lazar (# 6256147)
BARNES & THORNBURG LLP
One North Wacker Drive, Suite 4400
Chicago, IL 60606
312-357-1313
312-759-5646 (Fax)

CERTIFICATE OF SERVICE

I, Denise A Lazar., an attorney, state that I have caused a true and correct copy of the ***Objections to Plaintiffs' Subpoenas by Certain Agricultural Chemical Dealers and Applicators*** to be served upon the following attorneys of record at the addresses listed below via U.S. mail service this 14th day of July, 2011:

Michael A. Pope
McDermott, Will & Emery
227 West Monroe Street
Chicago, IL 60606-5096

Robert H. Shultz, Jr.
Heyl, Royster, Voelker & Allen
Mark Twain Plaza II, Suite 100
105 West Vandalia Street
Edwardsville, IL 62025

Kurtis B. Reeg
The Reeg Law Firm
1 North Brentwood Blvd., Ste 950
St. Louis, MO 63105

Mark C. Surprenant
Adams & Reese
4500 One Shell Square
New Orleans, LA 70139

Scott Summy
Baron & Budd
3102 Oak Lawn Avenue, Suite 1100
Dallas, TX 75219-4281

Anne G. Kimball
Wildman, Harrold, Allen & Dixon LLP
225 W. Wacker Drive, Suite 2800
Chicago, IL 60606

The following attorney was served via U.S. mail and facsimile:

Stephen M. Tillery
Korein Tillery
U.S. Bank Plaza
505 North 7th Street, Suite 3600
St. Louis, MO 63101
314-241-3525


