

**IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI**

RANDALL KING, SCOTT BUTTERFIELD,
ROBERT KOEHLER, MICHAEL MERX,
and BRUCE WALDMAN,

Plaintiffs,

v.

MONSANTO COMPANY,

Defendant,

ALAN YOUNGKRANTZ, LISA OAKLEY,
DONALD HARRYMAN, DONALD
JUSTUS, FREDRICK COOK, by and through
their representative KATHRYN COOK, and
KATHRYN COOK, on behalf of all living
heirs of FREDRICK COOK,

Proposed Intervenors.

Case No. 2622-CC00325

Division: 8

**PUTATIVE CLASS MEMBERS' MOTION OPPOSING FAST TRACK
PRELIMINARY APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT**

INTRODUCTION

The instant motion by Intervenors¹ makes only one request: that the Court not fast track preliminary approval of the Proposed Class Action Settlement Agreement (Proposed Settlement) as the parties to that agreement state their intention to do in the Proposed Settlement. Specifically, the Proposed Settlement provides that proposed class counsel will seek preliminary approval 15 days from the filing of the motion for preliminary approval. Because Intervenors are not parties to

¹ Proposed Intervenors are Alan Youngkrantz, Lisa Oakley, Donald Harryman, Donald Justus, and Kathryn Cook, as personal representative of the Estate of Fredrick Cook and on behalf of all living heirs of Fredrick Cook. This motion is being filed concurrently with Intervenors' counsel's motion to intervene because time is of the essence and incorporates the arguments in that motion.

the Proposed Settlement, they have no way of knowing whether proposed class counsel have asked the Court to set preliminarily approve the Proposed Settlement within 15 days, or by March 4th. But Intervenor do know this: 15 days is far too short a period for attorneys outside the settlement—who obtained the voluminous settlement papers for the first time on February 17th and represent nearly 20,000 Plaintiffs, who are also putative class members—to perform a meaningful analysis of the Proposed Settlement and provide the Court with their analysis of whether the Proposed Settlement is fair, adequate, and reasonable as required by Mo. Sup. Ct. R. 52.08(e)(2). Prior to filing this motion, Intervenor’s counsel requested that proposed class counsel agree to a modest extension of time to review the settlement materials, but proposed class counsel would not agree to do so.

Setting preliminary approval no sooner than 60 days from the filing of the preliminary approval motion—rather than 15 days—will not prejudice the parties to the Settlement Agreement. After all, they spent two years negotiating it. But denial of the instant request by Intervenor would severely prejudice them and deprive them, other Roundup plaintiffs, and putative class members of procedural due process. The additional time will allow counsel for Intervenor to adequately and fully review the Proposed Settlement, its exhibits, and the additional submissions made in support of preliminary approval of the Proposed Settlement. Expecting non-settling counsel to meaningfully analyze over 600 pages of complex settlement provisions in just 15 days—documents that took the settling parties two years to produce—is unreasonable and fundamentally inconsistent with due process. Accordingly, Intervenor respectfully request that the Court not fast track preliminary approval and schedule a preliminary approval hearing for at least 60 days from the date of the filing of the motion for preliminary approval.

ARGUMENT

Article X, Section 10.1(d) of the Proposed Settlement states that Class Counsel will “request that the Court set a hearing to consider the Preliminary Approval Order within 15 days after the Preliminary Approval Motion is filed.” Settlement Agreement, Art. X, §10.1(d). This abbreviated timeline is unreasonable given the length and complexity of the Proposed Settlement and its accompanying documents. Intervenors’ counsel requires additional time to fully and adequately analyze and consider the Proposed Agreement and its various exhibits and attachments, which total 620 pages of dense technical settlement terms.² The instant request is not only appropriate under these circumstances—it is constitutionally required. Without adequate time to review and respond Intervenors and other similarly situated plaintiffs would be denied the procedural due process to which they are entitled. *See State ex rel. Kairuz v. Romines*, 806 S.W.2d 451, 453, 458 (Mo. App. E.D. 1991) (finding that an “order, entered without notice and without giving the parties an opportunity to be heard,” “constituted a failure of due process”). The right to be heard necessarily includes the right to adequate time to prepare.

Scheduling the preliminary approval hearing at least 60 days from the date of the preliminary approval motion would cause no harm to the parties to the Proposed Settlement.

Missouri’s recently amended Supreme Court Rule 52.08 relating to class actions—which was adopted “to mirror the Federal Rules of Civil Procedure[’s]” Rule 23 standard for class actions—requires the court to determine whether a proposed class settlement is “fair, adequate, and reasonable” before granting preliminary approval and ordering notice be provided to the class.

² Intervenors’ counsel requested the parties to the Proposed Agreement for the courtesy of extending the time to request preliminary approval from 15 days to 60 days. Counsel have been informed that the parties to the Proposed Settlement will not agree to the extra time, necessitating this motion.

Mo. Sup. Ct. R. 52.08(e)(2); Rule 52.08 Bill summary, *available at* https://www.senate.mo.gov/25info/bts_web/Bill.aspx?SessionType=R&BillID=150. Among the factors the court must consider in that determination are whether “the relief provided for the class is adequate,” “the effectiveness of any proposed method of distributing relief to the class,” and that “the proposal treats class members equitably relative to each other.” *Id.* To make that determination, a district court must consider the following four factors: “(1) the merits of the plaintiff’s case weighed against the terms of the settlement, (2) the defendant’s financial condition, (3) the complexity and expense of further litigation, and (4) the amount of opposition to the settlement.” *Claxton v. Kum & Go, L.C.*, No. 6:14-CV-03385-MDH, 2015 WL 3648776, at *5 (W.D. Mo. June 11, 2015).

Proposed class counsel Christopher Seeger’s declaration in support of the motion for preliminary approval (“Seeger Decl.”) states that he began settlement discussions with Defendant Monsanto Co. on February 22, 2024. Seeger Decl. at ¶ 12. That means the parties to the Proposed Settlement spent **two years** negotiating and preparing the Proposed Settlement and its accompanying documents. Mr. Seeger states that for the past six months, proposed class counsel “worked through multiple iterations of the Settlement Agreements and its many exhibits, ***reviewing and negotiating the documents line by line.***” Seeger Decl. at ¶ 17 (emphasis added). Given the extensive time dedicated to crafting this expansive and complicated agreement, Intervenor’s request to have 60 days—a mere fraction of the time the settling parties enjoyed—to review, analyze, and digest the documents and to consider the fairness of the Proposed Settlement should be beyond dispute. Yet proposed class counsel would not agree to a modest extension of time to conduct this review, necessitating this Motion. The Court and putative class members deserve the benefit of a thorough, independent analysis by counsel who represent tens of thousands

of Roundup plaintiffs.

Preliminary approval is not intended to be a rubber stamp of the Proposed Settlement. Indeed, when confronted with a request for settlement-only class certification, the reviewing court should give Rule 23's class certification requirements "undiluted, even heightened, attention[.]" *Amchem Products, Inc. v. Windsor*, 521 U.S. 591, 620 (1997). Although settlement is a relevant factor to consider, "[s]ettlement . . . does not inevitably signal that class-action certification should be granted more readily than it would be were the case to be litigated." *Id.* at 620 n.16. In fact, due to special problems encountered with settlement-only classes, "proposed settlement classes sometimes warrant more, not less, caution on the question of certification." *Id.* (citing the discussion in *Georgine v. Amchem Products, Inc.*, 83 F.3d 610, 626–35 (3d Cir. 1996)); *Claxton v. Kum & Go, L.C.*, No. 6:14-CV-03385-MDH, 2015 WL 3648776, at *2 (W.D. Mo. June 11, 2015). The Court would benefit from Intervenors' full and adequate review and consideration of the settlement materials.

Moreover, as the Court of Appeals for the Eighth Circuit cautioned, that a class member can later opt out of a proposed class settlement is no basis to deny a putative class member's intervention prior to preliminary approval. *Smith v. SEECO, Inc.*, 865 F.3d 1021, 1024–25 (8th Cir. 2017). The Eighth Circuit's reasoning is particularly apt in these circumstances, where the Proposed Settlement seeks a stay of litigation and a nationwide notice plan reaching millions of people immediately following preliminary approval. These provisions will affect Intervenors' and other putative class members' fundamental rights, and they should have an opportunity to seek relief before they are implemented by the Court.

Intervenors are putative class members whose substantive rights will be directly impacted by preliminary approval of the Proposed Settlement. They have legitimate and substantial concerns

about the settlement terms. For instance, the Proposed Settlement seeks an automatic broad stay of all Roundup proceedings statewide immediately following preliminary approval. This stay would prejudice the rights of Intervenors and others who have been actively litigating their cases (many for nearly a decade now) and have a right to their day in court.³ They respectfully request only what due process requires: adequate time to review and meaningfully analyze the voluminous filing and to be heard prior to preliminary approval.

CONCLUSION

Intervenors therefore respectfully request that the Court not permit fast tracking of preliminary approval and instead schedule the preliminary approval hearing at least 60 days from the filing of the motion for preliminary approval by proposed class counsel to permit Intervenors, and any other counsel who represent Roundup plaintiffs and similarly did not have advance copies of the proposed settlement documents, to allow them to fully and adequately review the proposed settlement documents and to evaluate the fairness, adequacy, and reasonableness of the Proposed Settlement. Intervenors also respectfully suggest that any oppositions to preliminary approval be due to the Court 10 days before the hearing. This modest extension will ensure that the Court has the benefit of meaningful briefing from all affected parties before taking any action that could affect the rights of millions of putative class members, the vast majority of whom are represented by counsel and are actively litigating their claims against Monsanto in this and other courts.

³ Unfortunately, due to significant delays in this litigation, many of which have been wrought by Monsanto, many putative class members have passed away as a result of their non-Hodgkin Lymphoma before ever getting their day in court.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was filed and served by the Missouri Electronic Filing System on this 24th day of February 2026, to all counsel of record.

/s/ Mark R. Niemeyer