Organic Agriculture Protection Fund

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Media Release
June 25, 2002
Saskatoon, Sask.

Monsanto and Aventis ask for leave to appeal Judge Smith's May 2 decision

On June 26, 2002 counsel representing Saskatchewan organic farmers in their class action suit against Monsanto and Aventis will be in a Regina courtroom presenting their arguments as to why these companies should *not* be granted leave to appeal Judge Jean Smith's May 2 decision which compels them to submit their statement of defence in advance of the class action's certification hearing.

In Judge Smith's decision she stated that "the principle behind class proceedings legislation is to provide a procedure that will balance efficiency with fairness in order to achieve the three principle advantages of class actions: judicial economy, access to justice, and behaviour modification."

In order to meet these principles of fairness and efficiency, she ordered the defendants, Monsanto and Aventis, to submit their statement of defence in advance of the class certification hearing. Efficiency would be served by allowing Monsanto and Aventis to prepare a defence limited to only the organic certification standards used by plaintiffs Larry Hoffman, Hoffman Farms Inc. and Dale Beaudoin. By submitting their statements of defence in advance of the class certification, fairness would be served by allowing the plaintiffs advance notice of any defences the companies wish to raise. This will assist the plaintiffs in showing that that the action is best suited for the class action procedure and would allow them to request further details (particulars) from the companies, if needed, in order to be as prepared as possible for the certification hearing.

Although it was a divided result, the plaintiffs were satisfied with Judge Smith's May 2 ruling. They were, however, frustrated by Monsanto and Aventis's apparent delay move to seek leave to appeal her discretionary decision. If the companies are granted leave to appeal it will significantly delay the case and increase costs to the farmers.

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For details of the class action suit, please see http://www.saskorganic.com