

UNITED STATES DISTRICT COURT
Northern District of Alabama
Office of the Clerk
Hugo L. Black United States Courthouse
Room 140, 1729 5th Avenue North
Birmingham, Alabama 35203
(205) 278-1700



FILED
09 MAY 27 PM 3:19
U.S. DISTRICT COURT
N.D. OF ALABAMA

Mr. Thomas K. Kahn, Clerk
U.S. Court of Appeals, 11th Circuit
56 Forsyth Street, N.W.
Atlanta, GA 30303

U.S.D.C. No. 4:06-CV-1564-CLS
U.S.C.A. No.

09-12665DD

IN RE: Robert Hetinstall, et al v. Monsanto Company, Inc., et al

Enclosed are documents regarding an appeal in this matter. Please acknowledge receipt on the enclosed copy of this transmittal.

X Certified copy of Notice of Appeal, Docket Entries and Judgment/Order and Opinion appealed from enclosed. Please check if judgment was oral:

Certified record supplemental record on appeal consisting of: volume(s) of pleadings, etc.; volume(s) of transcripts;

X First Notice of Appeal? YES Dates of other Notices:

The following materials **SEALED** in this court (order enclosed) consisting of:

Original papers (court file) and certified copy of docket entries per USCA request.

X There was no hearing from which a transcript could be made.

Copy of CJA Form 20 or District Court order appointing counsel.

X The appellant docket fee has been paid. YES Date Paid: 5/21/2009

The appellant has been leave to appeal in forma pauperis and a request for certificate of appealability (order enclosed).

X The Judge/Magistrate Judge appealed from is: C. Lynwood Smith, Jr.

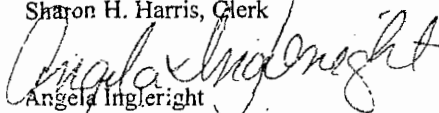
The Court Reporter is: 205-252-6565.

This is a **BANKRUPTCY APPEAL**. Please send notice of final order and/or opinion to: Richard Mauk, Acting Clerk, U.S. Bankruptcy Court, 1800 5th Avenue North, Birmingham, Alabama 35203.

This is a **DEATH PENALTY** appeal.

Appellant having failed to cure procedural defects re: appeal fee, the appeal is due to be **DISMISSED**.

Other:

Sharon H. Harris, Clerk
By: 
Angela Ingleright
Deputy Clerk

Sharon Harris
Clerk, U.S. District Court
101 HOLMES AVE NE
HUNTSVILLE AL 35801-4869

May 27, 2009

Appeal Number: 09-12665-D

Case Style: Robert H. Heptinstall v. Monsanto Co. Inc.

District Court Number: 06-01564 CV-4-CLS

TO: Elisa Smith Rives

CC: Sharon Harris

CC: Darci F. Madden

CC: Jeffrey S. Russell

CC: William J. Baxley

CC: Donald Randolph James, Jr.

CC: Joel E. Dillard

CC: David W. Gearhart

CC: Neal F. Perryman

CC: Robert J. Golterman

CC: J. David Moore

CC: Administrative File

FILED United States Court of Appeals

Eleventh Circuit

09 MAY 27 PM 3: 19 56 Forsyth Street, N.W.

Atlanta, Georgia 30303

Thomas K. Kahn
Clerk

U.S. DISTRICT COURT
N.D. OF ALABAMA

For rules and forms visit
www.ca11.uscourts.gov

May 27, 2009

Elisa Smith Rives
Elisa S. Rives, LLC
2208 RINGOLD ST STE 103
GUNTERSVILLE AL 35976-1571

Appeal Number: 09-12665-D

Case Style: Robert H. Heptinstall v. Monsanto Co. Inc.

District Court Number: 06-01564 CV-4-CLS

THE COURT HAS IMPLEMENTED A PROGRAM IN THIS DISTRICT REQUIRING PARTIES IN THIS APPEAL TO FILE EXPANDED RECORD EXCERPTS. PLEASE READ THE ENCLOSED INSTRUCTIONS FOR PREPARING EXPANDED RECORD EXCERPTS. THE ADDITIONAL REQUIREMENTS OF THE PROGRAM ARE MANDATORY AND NOT OPTIONAL.

CIVIL APPEALS ARE GOVERNED BY STRINGENT PROCEDURES FOR REQUESTING EXTENSIONS OF TIME TO FILE BRIEFS AND RECORD EXCERPTS. RULES PROVIDE FOR DISMISSAL WITHOUT FURTHER NOTICE WHEN A BRIEF OR RECORD EXCERPTS IS NOT FILED OR CORRECTED WITHIN THE TIME PERMITTED. PLEASE SEE THE CIRCUIT RULES AT WWW.CA11.USCOURTS.GOV.

The referenced case was docketed in this court on May 26, 2009. Please use the appellate docket number noted above when making inquiries. An appeal may be dismissed for failure to comply with the Federal Rules of Appellate Procedure and the rules of this court. Motions for extensions of time to file a brief are frowned upon by the court.

Pursuant to 11th Cir. R. 12-1, the record in this appeal was deemed completed and filed on the date the appeal was docketed in this court. Eleventh Circuit Rule 31-1 requires that APPELLANT'S BRIEF AND RECORD EXCERPTS BE SERVED AND FILED WITHIN FORTY (40) DAYS FROM THE DATE THE APPEAL WAS DOCKETED IN THIS COURT. This is the only notice you will receive concerning the due date for filing briefs and record excerpts. (In cross-appeals pursuant to Fed.R.App.P. 28(h), the party who first files a notice of appeal is the appellant unless the parties otherwise agree.) See Fed.R.App.P. 28, 30, 31 and 32, and the corresponding circuit rules, for further information on preparing briefs and record excerpts.

In addition to providing the required number of paper copies of briefs, all parties (except pro se parties) are required, additionally, to provide briefs in electronic format as described in 11th Cir. R. 31-5 and the enclosed instructions. Electronic briefs must be in Adobe Acrobat® PDF file format. The electronic brief must be completely contained in one PDF file, i.e., cover page through and including the certificate of service. The address wrapper accompanying this letter contains counsel's individual identification number (EDF ID) for electronic brief uploading. When uploading a brief for the first time, you will be prompted to register and create a password known only by you for all future uploads.

We have not yet received the Certificate of Interested Persons and Corporate Disclosure Statement (CIP) required by FRAP 26.1 and the accompanying circuit rules. The rules provide that the

certificate must be filed by every appellant [and cross-appellant] with this court within 10 days after the appeal is docketed in this court, or along with the filing in this court by any party of any motion, petition, or pleading, whichever occurs first. The rules further provide that on the same day a paper certificate is served, the party filing it must also complete the court's web-based certificate at the "Electronic Filing" link of the court's website, www.ca11.uscourts.gov, by electronically providing the information required for that form. Only the ticker symbols for publicly traded corporations that are listed on the paper CIP must be entered in the web-based system. If your CIP does not include any publicly traded corporations, you are required to go to the website and simply click the button indicating that you have no publicly traded corporations to report. Pro se parties are not required or authorized to complete the web-based certificate.

You are hereby notified that the clerk is not authorized to submit to the court any brief (except for the reply brief of an appellant or cross-appellant), petition, answer, motion or response that does not contain the certificate, but may receive and retain the papers pending supplementation of the papers with the required certificate. You are also hereby notified that failure to submit the required certificate will result in your document(s) being returned unfiled which may ultimately result in dismissal of your appeal.

Attorneys who wish to participate in this appeal must be properly admitted either to the bar of this court or for this particular proceeding pursuant to 11th Cir. R. 46-1, et seq. An attorney not yet properly admitted must file an appropriate application for admission within fourteen (14) days from this date. In addition, all attorneys who wish to participate in this appeal must complete and return an appearance form within fourteen (14) days from this date. Application forms and appearance forms are available on the Internet at www.ca11.uscourts.gov. The clerk may not accept motions or other filings from an attorney until that attorney files an appearance form. See 11th Cir. R. 46-5.

11th Cir. R. 33-1(a)(1) requires appellant to file a Civil Appeal Statement in most civil appeals. You must file an original and one copy of a completed Civil Appeal Statement, with service on all other parties, within 10 days from the date of this letter. Civil Appeal Statement forms are available on the Internet at www.ca11.uscourts.gov and as provided by 11th Cir. R. 33-1(a)(4).

MEDIATION. If a Civil Appeal Statement is required to be filed, your appeal and all related matters will be considered for mediation by the Kinnard Mediation Center. The mediation services are free and the mediation process is confidential. You may confidentially request mediation by calling the Kinnard Mediation Center at 404-335-6260 (Atlanta) or 813-301-5530 (Tampa) or 305-714-1900 (Miami). See 11th Cir. R. 33-1.

Sincerely,

THOMAS K. KAHN, Clerk

Reply To: Elora Jackson (404) 335-6173 [nh]

DKT-7-CIV (05-2009)