UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

State of Oklahoma, et al.,	)	05-CV-0329 GKF-SAJ
Plaintiffs,	)	
v.	)	
Tyson Foods, Inc., et al.,	)	
Defendants.	)	

THE CARGILL DEFENDANTS' MOTION TO QUASH SECOND AMENDED RULE 30(b)(6) NOTICES AND FOR PROTECTIVE ORDER

Defendants Cargill, Inc. ("Cargill") and Cargill Turkey Production, L.L.C. ("CTP") (together, the "Cargill Defendants"), respectfully move this Court, pursuant to Fed.R.Civ.P. 45(c))(3)(A)(iv), to Quash the Second Amended 30(b)(6) Notices (the "Notices") issued by Plaintiffs to Cargill, Inc. and Cargill Turkey Production L.L.C. on March 24, 2008, and to stay the depositions requested in the Plaintiffs' Notices pursuant to Fed.R.Civ.P. 26(c). The Cargill Defendants offer the following in support.

Background

Following the conclusion of the hearing on the State's Motion for Preliminary Injunction, as previously ordered by this Court, the Cargill Defendants offered Plaintiffs dates for the depositions of their designated witnesses pursuant to Plaintiffs' stayed December 21, 2007 notices. (*See* March 20, 2008 correspondence attached as Exhibit 1.) The dates offered in the March 20 correspondence were rejected by Plaintiffs. Subsequently, Plaintiffs issued Second Amended Notices to Cargill and CTP (attached as

Exhibit 2) setting April 22 and 23 and April 29 and 30, 2008 for depositions of a Cargill and CTP designee respectively.

Upon receipt of the notices, the Cargill Defendants advised Plaintiffs that the notices, as issued, would be answered by one witness to address operational issues and a second witness to answer corporate knowledge issues. The Cargill Defendants further responded that the noticed dates were unworkable for the corporate knowledge witness and have offered to present the operations witness on April 29 and 30, 2008 and have offered the corporate knowledge witness for dates in May when that witness is available. The Cargill Defendants also notified Plaintiffs about certain supplemental documents ready for production. Given the realities of this timing, the Cargill Defendants offered that if, as a result of discussions regarding these additional documents or for any other reason that should become apparent, Plaintiffs are prejudiced, the Cargill Defendants would not object to a discrete supplementation of Plaintiffs' expert reports past the May 15, 2008 deadline as to the Cargill Defendants. (*See* April 18, 2008 correspondence attached as Exhibit 3.)

Plaintiffs take issue with both the dates and the manner of deposition witness presentation suggested by the Cargill Defendants. The parties remain unable to resolve their differences despite meet and confer efforts, most recently, late this afternoon.

In addition, after the meet and confer, the Cargill Defendants determined they would cancel significant business obligations of the second witness such that the witness can be produced earlier than the previously offered date of May 23.

Argument

Federal Rule of Civil Procedure 26(c) governs entry of protective orders, and allows a court where "good cause" is shown to "make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense." The Rule specifically contemplates entry of an order delineating the time of particular discovery. Fed. R. Civ. P. 26(c)(2). In complement, subpart (d) of Rule 26 authorizes this Court to dictate the timing of discovery to accommodate the "convenience of parties" and in the "interest of justice," while Rule 45(c)(3)(A)(iv) in turn allows the Court to quash a subpoena that "subjects a person to undue burden."

The Cargill Defendants stand ready to produce witnesses to address the issues set forth in Plaintiffs' Second Amended Notices on the earliest dates the designated individuals' business obligations allow them to appear. Unfortunately, the parties have not been able to find a mutually agreeable date and also require guidance from this Court on Plaintiffs' proposed structure for the requested Cargill and CTP depositions.

Accordingly, the Cargill Defendants ask this Court for an Order quashing the Notices, and respectfully request that this Court enter a protective order with respect to the proposed depositions until a hearing on the issues raised herein can be had.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on the 18th day of April, 2008, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following who are not registered participants of the ECF System:

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