

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION**

)	
)	
WENDELL F. GILLEY, an)	
individual and as representative)	
participant,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.
)	
v.)	
)	CV-04- CLS-0562-M
MONSANTO COMPANY, INC.,)	
et. al.)	
)	
)	
Defendants.)	
)	

**MOTION TO FILE A SURREPLY TO DEFENDANTS’ REPLY IN
SUPPORT OF SUMMARY JUDGMENT**

Comes Now, Plaintiff, Wendell F. Gilley, as an individual and as a representative participant on behalf of the Monsanto Salaried Employees’ Pension Plan “the Plan” and files his motion to file a Surreply. As grounds for said motion Plaintiff states the following:

1. The present litigation has been ongoing for four years.
2. Plaintiff raises multiple claims for discrimination, breach of fiduciary duty, and violation of ERISA’s mandates in his amended complaint on behalf of himself individually and on behalf of the Plan.

3. The Employment Retirement Income Security Act “ERISA” is a complicated statutory law that requires frequent citation to the appropriate United States Code “USC” and corresponding ERISA and Internal Revenue Code “IRC”, the Code of Federal Regulations “CFR”, and the Treasury Regulations.

4. Additionally, because ERISA is new, in terms of law, it requires thorough explanation with examples.

5. Because Plaintiff’s claims on behalf of the Plan will necessarily have an impact on other plan participants it is essential to discuss defendants’ failure to properly state the facts, the record, and the law.

6. Because Plaintiff’s claims on behalf of the Plan will necessarily have an impact on other plan participants it is essential to provide evidence in regards to the treatment of similarly situated participants and evidence of a multitude of violations in the operation of the alleged qualified plan.

7. Because defendants have misrepresented the facts, the law, and made wild outrageous accusations against Plaintiff’s counsel it is essential that Plaintiff’s counsel properly cover every issue raised.

8. Finally, because defendants have completely disregarded ERISA and IRC mandates in regards to their operation of the alleged qualified Plan it is necessary to provide the Court with a thorough

explanation and discussion regarding the impact of this decision, which requires responding to defendants' reply.

WHEREFORE, Plaintiff, Wendell F. Gilley, individually and on behalf of the Plan requests that the Court grant Plaintiff's motion to file the attached Surreply.

Respectfully submitted,

/s/ Elisa Smith Rives

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served by the electronic filing system for the Northern District of Alabama on the following counsel of record this the 2nd day of May 2008.

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