

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

WALTER PARKER and LINDA PARKER,

Plaintiffs,

- against -

SYNGENTA CROP PROTECTION LLC,
CHEVRON U.S.A., INC., and UNITED STATES
SUGAR CORPORATION,

Defendants.

Case No. _____

(Formerly Case No. 50-2021-CA-009421-
xxxx-MB in the Circuit Court of the
Fifteenth Judicial Circuit, Palm Beach
County, Florida)

NOTICE OF REMOVAL

Defendants Syngenta Crop Protection LLC (“Syngenta”) and Chevron U.S.A. Inc. (“Chevron”), pursuant to 28 U.S.C. §§ 1331, 1332, 1441, 1446, and 1367, hereby remove the above-captioned action from the Circuit Court of the Fifteenth Judicial Circuit Palm Beach County, Florida, case number 50-2021-CA-009421-xxxx-MB, to the United States District Court for the Southern District of Florida. In support of removal, Syngenta and Chevron provide this “short and plain statement of the grounds for removal.” 28 U.S.C. § 1446(a).

NATURE OF REMOVED ACTION

1. On August 4, 2021, Plaintiffs filed this action, *Walter Parker and Linda Parker v. Syngenta Crop Protection LLC et al.*, in the Circuit Court of the Fifteenth Judicial Circuit, Palm Beach County, Florida, case number 50-2021-CA-009421-xxxx-MB, alleging claims based upon exposure to products containing paraquat and Plaintiff Walter Parker’s subsequent diagnosis with Parkinson’s disease.

2. The Complaint asserts three causes of action against Syngenta and Chevron, namely: (i) negligence; (ii) strict liability; and (iii) loss of consortium. The Complaint also purports

to assert a claim against Defendant United States Sugar Corporation (“U.S. Sugar”) under the tort exception to workers’ compensation immunity.

3. The thrust of Plaintiffs’ allegations is that by manufacturing, distributing, or selling products containing paraquat, Syngenta and Chevron exposed Walter Parker to an increased likelihood of developing Parkinson’s disease, a disease that he was later diagnosed with.

4. This alleged conduct purportedly harmed Plaintiffs in the form of physical pain, mental anguish, loss of consortium, and medical expenses.

5. Over 250 similar cases—alleging Parkinson’s disease based on past exposure to paraquat—have been filed against Syngenta and Chevron in federal courts around the country, and consolidated into a multidistrict litigation in the Southern District of Illinois. *See In re: Paraquat Prods. Liab. Litig.*, 21-md-03004 (S.D. Ill. 2021). That MDL is still in its early stages, with new cases regularly being transferred to it. By filing this case in state court, Plaintiffs are seeking to avoid the MDL, which is designed to ensure the most efficient and orderly administration of a large number of cases presenting common issues of law and fact.

6. This case is subject to removal on the grounds of diversity jurisdiction, however, because there would be complete diversity of citizenship between Plaintiffs and Defendants but for the joinder of U.S. Sugar as a Defendant—but Plaintiffs have no hope of prevailing against U.S. Sugar given the immunity provided by Florida’s workers’ compensation regime. Defendant U.S. Sugar has therefore been fraudulently joined as a Defendant, and its citizenship is properly ignored for purposes of evaluating the Court’s jurisdiction.

7. Even if Plaintiffs had viable claims against U.S. Sugar, the claims against U.S. Sugar (which was Plaintiff Walter Parker’s *employer*) are not properly joined in the same action with the claims against Syngenta and Chevron (who allegedly manufactured and distributed the

products containing paraquat). Defendant U.S. Sugar has therefore been fraudulently misjoined, and its citizenship is properly ignored for purposes of evaluating the Court's jurisdiction.

8. At a minimum, the Court should sever the claims against U.S. Sugar from the claims against Syngenta and Chevron in order to preserve federal jurisdiction over the latter and defeat Plaintiffs' efforts to undermine federal jurisdiction over this case.

9. Plaintiffs' claims are also removable because they arise under federal law. Plaintiffs' claims are premised on the breach of duties governed by the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 *et seq.* ("FIFRA"), as regulated and enforced by the Environmental Protection Agency ("EPA"). *See, e.g.*, 7 U.S.C. § 136a (EPA must register any pesticide, including herbicides, before it is sold domestically after weighing the economic, social, and environmental benefits and costs of the product); *id.* § 136(q)(1)(F) (FIFRA empowers EPA to control warnings, directions, and packaging, and specifically mandates warnings for pesticides that are "adequate to protect health and the environment"); *id.* § 136j(a)(2)(G) (making it illegal to use any pesticide "in a manner inconsistent with its labeling"); 40 C.F.R. § 152.160 (paraquat is a "restricted use" pesticide and may only be applied by a certified "restricted use" applicator or someone acting under a certified applicator's "direct supervision"); *id.* §§ 171.103, 171.105 (pesticide applicators are taught to read and understand warnings and instructions for paraquat and must take "[m]easures to avoid or minimize adverse health effects").

10. Because any duties relating to paraquat arise exclusively from federal law—FIFRA and its underlying regulations—alleged violations of federal law form the basis for the underlying claims. It would be illegal for any state to require that a paraquat label include a warning about the risk of developing Parkinson's disease, because EPA has determined that no causal link exists. *See* 7 U.S.C. § 136v(b) (states are prohibited from imposing "labeling or packaging" requirements

“in addition to or different from” those required under FIFRA); EPA, Paraquat Dichloride: Interim Registration Review Decision, Case No. 0262, at 18 (July 13, 2021), *available at* <https://www.regulations.gov/document/EPA-HQ-OPP-2011-0855-0307> (“[T]he weight of evidence [is] insufficient to link paraquat exposure from pesticidal use of U.S. registered products to [Parkinson’s disease] in humans.”).

11. Federal courts have routinely grappled with an important question that will be raised here: which state law claims regarding pesticide products are preempted under FIFRA. *See, e.g., Papas v. Upjohn Co.*, 985 F.2d 516 (11th Cir. 1993) (common-law tort claims based on inadequate labeling of pesticides preempted by FIFRA); *MacDonald v. Monsanto Co.*, 27 F.3d 1021 (5th Cir. 1994) (common-law claims based upon manufacturer’s alleged failure to properly label pesticides and to warn of their dangers preempted by FIFRA); *Lescs v. William R. Hughes, Inc.*, 168 F.3d 482 (4th Cir. 1999) (tort claims regarding injuries allegedly caused by pesticide exposure preempted by FIFRA); *King v. E.I. Dupont De Nemours & Co.*, 996 F.2d 1346 (1st Cir. 1993) (FIFRA preempted state law tort claim due to failure to warn); *Nathan Kimmel, Inc. v. DowElanco*, 275 F.3d 1199, 1208 (9th Cir. 2002) (state law claims regarding pesticide manufacturer’s label instructions preempted by FIFRA); *Nat’l Bank of Com. of El Dorado, Arkansas v. Dow Chem. Co.*, 165 F.3d 602 (8th Cir. 1999) (inadequate labeling, failure to warn, and express and implead breach of warranty claims preempted by FIFRA); *Indian Brand Farms, Inc. v. Novartis Crop Prot. Inc.*, 617 F.3d 207 (3d Cir. 2010) (failure to warn claims and claims based on alleged misrepresentation in pesticide marketing brochure not preempted).

12. In accordance with 28 U.S.C. § 1446(a) and the Local Rules of this Court, a copy of the Complaint is attached as **Exhibit A** (“Compl.”). A copy of all other process, pleadings, and orders served on Syngenta and Chevron or otherwise on file with the state court are attached as

Exhibit B. A copy of Defendant U.S. Sugar's consent to the removal of this proceeding to this Court on federal question grounds is attached as **Exhibit C**.

TIMELINESS OF REMOVAL

13. Syngenta and Chevron were each served with the Complaint on August 24, 2021. U.S. Sugar was served with the Complaint on or about August 28, 2021. Defendants have not responded to the Complaint in state court.

14. In accordance with 28 U.S.C. § 1446(b), this notice of removal is timely filed because it is within 30 days of Defendants being served. *See Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 354-56 (1999) (30-day removal period begins to run upon service of summons and complaint).

PROPRIETY OF VENUE

15. Venue is proper in this Court pursuant to 28 U.S.C. § 1441(a) because the Circuit Court of the Fifteenth Judicial Circuit, Palm Beach County, Florida, where the state court action was pending prior to removal, is a state court within this federal district and division.

BASIS OF REMOVAL

Diversity Jurisdiction

16. Removal is proper pursuant to 28 U.S.C. §§ 1332 and 1441 because there is complete diversity between the parties and the amount in controversy exceeds \$75,000.

17. Plaintiffs are both citizens of the state of Florida. Compl. ¶ 2.

18. Syngenta is an LLC with its headquarters in Greensboro, North Carolina. Syngenta's sole member is Syngenta Seeds, LLC, which is headquartered in Downers Grove, Illinois. The sole member of Syngenta Seeds, LLC is Syngenta Corporation, which is incorporated and headquartered in Delaware.

19. Chevron is headquartered in San Ramon, California and incorporated in the state

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.