

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

JAMES HEMKER and JUDITH HEMKER,

Plaintiffs,

v.

SYNGENTA CROP PROTECTION LLC,
SYNGENTA AG, and
CHEVRON U.S.A., INC.,

Defendants.

Case No. 3:21-cv-00211

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs, JAMES HEMKER and JUDITH HEMKER, complaining of Defendants,
SYNGENTA CROP PROTECTION LLC, SYNGENTA AG, and CHEVRON U.S.A.,
INC., state:

I. Summary of the case

1. Paraquat is a synthetic chemical compound¹ that since the mid-1960s has been developed, registered, manufactured, distributed, sold for use, and used as an active ingredient in herbicide products (“paraquat products”) developed, registered, formulated, distributed, and sold for use in the United States (“U.S.”), including the State of Illinois (“Illinois”).

¹ Paraquat dichloride (EPA Pesticide Chemical Code 061601) or paraquat methosulfate (EPA Pesticide Chemical Code 061602).

2. From approximately May 1964 through approximately June 1981, Imperial Chemical Industries Limited (“ICI Limited”) and certain ICI Limited subsidiaries,² and from approximately June 1981 through approximately September 1986, Imperial Chemical Industries PLC (“ICI PLC”) and certain ICI PLC subsidiaries, each of which was a predecessor³ of Defendant SYNGENTA AG (“SAG”) and/or Defendant SYNGENTA CROP PROTECTION LLC (“SCPLLC”), were engaged, directly, acting in concert with each other, and/or acting in concert with Chevron Chemical Company, previously known as California Chemical Company (“CHEVRON”), in the business of developing, registering, manufacturing, distributing, and selling paraquat for use as an active ingredient in paraquat products, and developing, registering, formulating, and distributing paraquat products, for sale and use in the U.S., including Illinois (“the U.S. paraquat business”).

3. From approximately May 1964 through approximately September 1986, CHEVRON, a predecessor of Defendant CHEVRON U.S.A., INC. (“CUSA”), was

² As used in this Complaint, “subsidiary” means a corporation or other business entity’s wholly-owned subsidiary that is or formerly was engaged in the U.S. paraquat business directly or acting in concert with others.

³ As used in this Complaint, “predecessor” means a corporation or other business entity or subsidiary thereof, to which a Defendant is a successor by merger, continuation of business, or assumption of liabilities, that formerly was engaged in the U.S. paraquat business directly or acting in concert with others.

engaged, directly and/or acting in concert with ICI,⁴ in all aspects of the U.S. paraquat business.

4. Between approximately May 1964 and approximately September 1986, ICI manufactured and sold to CHEVRON paraquat (“ICI-CHEVRON paraquat”) for use by CHEVRON, and others to which CHEVRON distributed it, as an active ingredient in paraquat products that CHEVRON and others formulated and distributed for sale and use in the U.S., including Illinois (“ICI-CHEVRON paraquat products”).

5. From approximately September 1986 through the present, ICI PLC and certain ICI PLC subsidiaries (including predecessors of SCPLLC) initially, then other SAG predecessors and certain subsidiaries of each (including predecessors of SCPLLC), and most recently SAG and certain SAG subsidiaries (including SCPLLC), have been engaged, directly and/or acting in concert with each other, in all aspects of the U.S. paraquat business.

6. From approximately September 1986 through the present, ICI PLC and certain ICI PLC subsidiaries (including predecessors of SCPLLC) initially, then other SAG predecessors and certain subsidiaries of each (including predecessors of SCPLLC), and most recently SAG and certain SAG subsidiaries (including SCPLLC), have manufactured paraquat (“ICI-SYNGENTA paraquat”) for their own use, and for use by

⁴ As used in this Complaint, “ICI” means ICI Limited and various ICI Limited subsidiaries through approximately June 1981 and ICI PLC and various ICI PLC subsidiaries thereafter.

others to which they distributed it, as an active ingredient in paraquat products that SCPLLC and its predecessors and others have distributed for sale and use in the U.S., including Illinois (“ICI-SYNGENTA paraquat products”).

7. Plaintiff JAMES HEMKER purchased and used in Illinois ICI-CHEVRON paraquat products and/or ICI-SYNGENTA paraquat products (collectively, “Defendants’ paraquat products”).

8. Plaintiff JAMES HEMKER used Defendants’ paraquat products regularly and frequently over a period of many years.

9. Plaintiff JAMES HEMKER suffers from Parkinson’s disease caused by many years of regular, frequent, prolonged exposure to paraquat from Defendants’ paraquat products, and Plaintiff JUDITH HEMKER has suffered losses of the services and consortium of Plaintiff JAMES HEMKER as a result of his illness.

10. Plaintiffs bring this case to recover from Defendants, under the following alternative theories of liability, compensation for injuries and damages caused by the exposure of Plaintiff JAMES HEMKER to paraquat from Defendants’ paraquat products, plus costs of suit: strict product liability—design defect; strict product liability—failure to warn; negligence and willful and wanton conduct; public nuisance; violation of the Illinois Consumer Fraud and Deceptive Business Practices Act; and breach of the implied warranty of merchantability. Plaintiffs also seek punitive damages

under Illinois common law and punitive damages and reasonable attorney's fees under the Illinois Consumer Fraud and Deceptive Business Practices Act.

II. Parties

A. Plaintiffs

11. Plaintiffs JAMES HEMKER and JUDITH HEMKER are husband and wife and citizens of the State of Illinois. Plaintiffs reside in the Village of Bartelso in Clinton County, Illinois.

B. Defendants

12. SCPLLC is a Delaware limited liability company with its principal place of business in Greensboro, North Carolina. SCPLLC is a wholly-owned subsidiary of Defendant SAG.

13. SAG is a foreign corporation with its principal place of business in Basel, Switzerland.

14. CUSA is a Pennsylvania corporation with its principal place of business in San Ramon, California.

III. Subject matter jurisdiction

15. This Court has subject matter jurisdiction over this action because diversity jurisdiction exists under 28 U.S.C. § 1332(a)(3).

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