

PLAINTIFFS' ORIGINAL PETITION

COME NOW Plaintiffs, and file this Original Petition against Defendants, Bayer Crop Science, LP and Monsanto Company (collectively, "Monsanto"), and BASF Corporation ("BASF"), and in support thereof, Plaintiffs would show as follows:

INTRODUCTION

For decades, Monsanto made billions of dollars selling genetically modified crops that could be sprayed with Monsanto's Roundup herbicide. But several years ago, Monsanto realized that it needed to develop a new seed system that could be used with a different herbicide because the very weeds Roundup was supposed to kill were becoming resistant to Roundup. And, in more recent years, Roundup has saddled Monsanto (and Monsanto's current owner Bayer) with billions of dollars in liabilities associated with tens of thousands of claims that Roundup causes cancer.

Faced with this crisis, Monsanto partnered with BASF to develop a new seed system. The new system would employ genetically modified cotton and soybean seeds that would be resistant to and could be sprayed with the herbicide dicamba.

While dicamba has existed since the 1960s, it had limited application because of a well-known problem—it was highly prone to volatilizing into a gas and moving miles off target where it would damage whatever plants it came in contact with.

Where many companies would have seen a problem, Monsanto and BASF saw an opportunity to start an agricultural "protection racket." Monsanto and BASF's internal records reflect that they knew their new dicamba-based seed system would inevitably lead to the crops of farmers who did not buy their product (crops that were

not genetically modified to be dicamba resistant) being damaged from volatilizing and drifting dicamba. This would force cotton and soybean farmers to either buy the Monsanto/BASF dicamba-based seed system, or see their crops destroyed.

One of the largest cotton patches in the world is in the Texas High Plains near Lubbock. Monsanto and BASF's dicamba-based seed system has become widely used in the region, with more than two million acres planted. Thus, every summer when cotton farmers have dicamba applied over the top of their dicamba resistant crops, a massive cloud of dicamba covers the High Plains.

But cotton is not the only crop grown in the High Plains. Within and among the cotton fields are dozens of vineyards that produce roughly 85% of the grapes used to make wines in Texas. They are the core of the state's \$13 billion wine industry, the nation's fifth largest. Grapes, however, are extremely sensitive to dicamba. And grapevines cannot be made dicamba-resistant.

Dicamba damage on grapevines in the High Plains was unheard of prior to the release of Monsanto and BASF's dicamba-based seed system. Now it can be found throughout every portion of every vineyard in the region. As volatilizing or drifting dicamba comes in contact with a grapevine, the plant is harmed, reducing the plant's overall health. Leaves deform, cup, and shrink—and soon the plant stops growing. And when vines get hit with dicamba many times a year, for multiple years, the results are disastrous—stunted development, significantly reduced yields, poor quality grapes, and, eventually, vine death. Over the past few years, this is exactly what has happened in the High Plains.

This case is brought by fifty-seven (57) vineyards (roughly 3,000 acres of vines) and four related processors that have invested tens of millions of dollars and years of toil in developing their fields. Their investment and work, however, has been destroyed by Monsanto and BASF's defective dicamba-based seed system. The cloud of dicamba that now covers the High Plains each summer has crippled what was an award-winning and rapidly growing industry. The vineyards have seen their production fall dramatically, and what grapes do grow are often rejected for poor quality. Contracts have been cancelled, winemakers have had to seek grapes elsewhere, and a stigma has attached to the region. The overall value of these vineyards has been significantly impaired both now and in the future.

All told, the Plaintiffs have suffered over \$114 million in economic damages. The Plaintiffs now seek to recover these damages and, based on Defendants' knowing and intentional release of the defective seed system, at least \$228 million in punitive damages from Bayer-Monsanto and \$228 million in punitive damages from BASF. In total, Plaintiffs will seek at least \$560 million at trial.

DISCOVERY CONTROL PLAN

1. Plaintiffs intend to conduct discovery under Level 3 of Texas Rule of Civil Procedure 190.3 and affirmatively plead that this suit is not governed by the expedited actions process in Texas Rule of Civil Procedure 169 because each Plaintiff seeks monetary relief over \$250,000.

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