

Nos. 20-3663, 20-3665

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*United States Court of Appeals*  
*for the*  
*Eighth Circuit*

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JOHN S. HAHN,  
*Special Master,*  
BADER FARMS, INC.,  
*Plaintiff-Appellee,*  
BILL BADER,  
*Plaintiff,*

vs.

MONSANTO COMPANY,  
*Defendant-Appellant,*  
BASF CORPORATION,  
*Defendant-Appellant.*

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On Appeal from the United States District Court  
for the Eastern District of Missouri, No. 1:16-cv-00299-SNLJ  
The Honorable Stephen N. Limbaugh, Jr., District Judge

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**PLAINTIFF-APPELLEE BADER FARMS, INC.'S ANSWER BRIEF  
IN NOS. 20-3663, 20-3665**

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## SUMMARY OF THE CASE

Monsanto and BASF negligently commercialized their dicamba-tolerant (“Xtend”) crop system knowing farmers would spray deadly, off-label dicamba in 2015-2016 and even “lower-volatility” dicamba would cause massive off-target injury in 2017-present. Defendants did so “with the expectation” this damage to farmers would help them sell more product. As a result, Bader Farms’ peach orchards were (and are) pummeled each year with dicamba sprayed over Xtend crops, costing millions in lost profits and rendering the peach operations unsustainable.

After a three-week trial, Plaintiff submitted negligent design and failure to warn claims. The jury, correctly instructed with Missouri Approved Instructions, awarded Plaintiff \$15 million in compensatory and \$250 million in punitive damages and found Defendants acted in a joint venture and conspiracy. In an 88-page, post-trial order, the District Court rejected Defendants’ arguments raised on appeal (reducing only punitive damages to \$60 million).

Thirty minutes per side is adequate argument given the District Court’s exhaustive analysis. Plaintiff requests equal time to Defendants’ combined allotment because they appeal the same issues but divide responsibility for the arguments.

## **CORPORATE DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eighth Circuit Local Rule 26.1A, Plaintiff-Appellee Bader Farms, Inc. (“Bader Farms”), a non-governmental entity, states that Bader Farms has no parent company, no subsidiary that is not wholly owned, and no publicly held company owns 10 percent or more of its stock.

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