

Case Nos. 20-3665, 20-3663

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

John S. Hahn,
Special Master,

Bader Farms, Inc.,
Plaintiff-Appellee,

Bill Bader,
Plaintiff,

v.

Monsanto Company,
Defendant-Appellant,

BASF Corporation,
Defendant-Appellant.

**OPENING BRIEF FOR DEFENDANT-APPELLANT
MONSANTO COMPANY IN NO. 20-3665**

Appeal from the United States District Court
For the Eastern District of Missouri, No. 16-cv-00299
Honorable Stephen N. Limbaugh, Jr., United States District Judge

A. Elizabeth Blackwell
BRYAN CAVE LEIGHTON PAISNER LLP
One Metropolitan Square
211 N. Broadway, Ste. 3600
St. Louis, MO 63102

Christopher M. Hohn
Sharon B. Rosenberg
THOMPSON COBURN LLP
One US Bank Plaza
St. Louis, MO 63101

Jonathan F. Cohn*
Erika L. Maley
Tyler J. Domino
Adam Kleven
SIDLEY AUSTIN LLP
1501 K Street, NW
Washington, DC 20005
(202) 736-8000
Attorneys for Monsanto Company
* Counsel of Record

SUMMARY OF THE CASE

The court below erred in massively expanding Missouri's doctrine of proximate causation, contrary to bedrock federalism principles.

Disregarding Missouri law, the court held that Monsanto Company was liable for damage to fruit trees caused by herbicides Monsanto did not even manufacture or sell. The purported basis for liability is that third-party farmers sprayed the herbicides over crops grown from Monsanto's seeds contrary to express warnings — and the herbicides then allegedly drifted onto Plaintiff Bader Farms, damaging peach trees.

This erroneous ruling, which the district court itself recognized was "unique" and not "conventional," led to a judgment against Defendants of \$75 million, including \$60 million in punitive damages. The compensatory damages award is contrary to longstanding Missouri precedent regarding damages for harm to fruit trees, and the punitive damages award is contrary to Missouri law and unconstitutionally excessive.

Given the importance of these issues and the significant errors below, Monsanto requests 30 minutes of argument time.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eighth Circuit Local Rule 26.1A, Defendant-Appellant Monsanto Company (“Monsanto”), a non-governmental entity, states that Monsanto is wholly owned by BCS US Holding LLC and is an indirect subsidiary of Bayer AG. Bayer AG, a publicly held German stock company, has no parent company and no publicly-held company owns 10 percent or more of its stock.

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