

Case Nos. 20-3665, 20-3663

**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,*

v.

Monsanto Company,  
*Defendant-Appellant,*

BASF Corporation,  
*Defendant-Appellant.*

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

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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

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## 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.

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## 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.

## TABLE OF CONTENTS

|   |    |
|---|----|
| SUMMARY OF THE CASE .....                     | i  |
| CORPORATE DISCLOSURE STATEMENT .....          | ii |
| TABLE OF AUTHORITIES.....                     | vi |
| INTRODUCTION .....                            | 1  |
| JURISDICTIONAL STATEMENT.....                 | 5  |
| STATEMENT OF ISSUES.....                      | 6  |
| STATEMENT OF THE CASE .....                   | 7  |
| I. Factual Background.....                    | 7  |
| II. Procedural History.....                   | 12 |
| A. The Complaint .....                        | 12 |
| B. Pre-Trial Rulings.....                     | 14 |
| 1. <i>Rulings on the Pleadings</i> .....      | 14 |
| 2. <i>Summary Judgment Rulings</i> .....      | 16 |
| C. The Trial.....                             | 18 |
| 1. <i>Causation Evidence</i> .....            | 19 |
| 2. <i>Compensatory Damages Evidence</i> ..... | 20 |
| 3. <i>Jury Instructions</i> .....             | 21 |
| 4. <i>Punitive Damages</i> .....              | 22 |

|     |  |    |
|-----|--|----|
| D.  | Post-Trial Rulings.....  | 23 |
|     | SUMMARY OF ARGUMENT.....   | 26 |
|     | STANDARDS OF REVIEW .....  | 28 |
|     | ARGUMENT.....  | 29 |
| I.  | THE DISTRICT COURT ERRED IN HOLDING THAT<br>MONSANTO PROXIMATELY CAUSED HARM TO BADER.....   | 29 |
| A.  | Under Missouri Law, Monsanto Is Not Liable For Illegal<br>Misuse Of Dicamba By Third Parties.....  | 30 |
| 1.  | <i>Third-Party Illegal Misuse of Dicamba Broke the Chain Of<br/>Causation</i> .....  | 30 |
| 2.  | <i>At a Minimum, the District Court Erred in Refusing to Give<br/>an Intervening-and-Superseding Cause Instruction</i> .....             | 37 |
| B.  | Under Missouri Law, Monsanto Cannot Be Held Liable For<br>Damages Caused By Products It Did Not Manufacture Or<br>Sell.....              | 39 |
| 1.  | <i>The Court Erred in Holding That Monsanto was Liable for<br/>Damages Caused by Other Companies' Products</i> .....                     | 39 |
| 2.  | <i>The Court Erred in Holding that Monsanto was Liable for<br/>Manufacturing a "Component" of a "Dicamba-Tolerant<br/>System."</i> ..... | 43 |
| II. | THE DISTRICT COURT IMPERMISSIBLY EXPANDED STATE<br>LAW TO PERMIT SPECULATIVE FUTURE LOST-PROFIT<br>DAMAGES .....                         | 46 |

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