

U.S. District Judge Certifies Syngenta Corn Case as Class Action

There are more than 440,000 corn farmers nationwide according to the United States Department of Agriculture.

KANSAS CITY, KS (September 27, 2016) A Kansas federal judge has ruled that hundreds of thousands of corn farmers' claims against Syngenta may proceed as a class action. Plaintiffs allege that Syngenta prematurely and irresponsibly sold Agrisure Viptera and Duracade, causing significant losses to corn farmers across the country. It is estimated by the plaintiffs that U.S. corn producers lost between \$5-7 billion in current and future revenue because China stopped importing U.S. corn when Syngenta's new genetically modified trait contaminated export shipments from the United States. China had not yet approved that corn for import when Syngenta started selling its seed on a wide-spread basis across the U.S. Those losses were suffered by all corn producers (including crop-share landlords) who marketed corn in the fall of 2013 or later, according to attorneys for the plaintiffs.

"The Court's ruling will make it easier and less expensive for farmers to pursue their claims against Syngenta," said Scott Powell who, along with Don Downing, William Chaney and Patrick Stueve, was appointed by the Court as attorneys to represent the class. "Instead of having to retain and pay individual counsel, file their own lawsuit, produce voluminous farm records, sit for a deposition and appear at trial, the Court found that all class members may attempt to prove their claims through a limited number of class representatives. If those class representatives win, all class members win. No individual farmer has to file a lawsuit to seek a recovery." In his ruling certifying the class, the Honorable John W. Lungstrum, a United States District Judge for the District of Kansas, found that a class action was superior to hundreds of thousands of individual lawsuits: "Tens of thousands of putative class members have not brought individual actions, and the great efficiencies that may be achieved make class actions superior to individual actions, despite the fact that so many individuals actions have been filed."

Downing, who was appointed co-lead counsel in the Bayer genetically modified rice litigation and led the negotiations that resulted in a \$750 million global cash settlement for farmers, said that class certification is a significant win for the farmers. "Syngenta vigorously opposed our motion. The Court considered thousands of pages of argument and evidence, heard live testimony from our damages experts, and oral argument from counsel. Although not a decision on the merits, it is a significant win for the farmers." In assessing the strength of the plaintiffs' evidence that all corn producers were injured, the Court found that "it would defy logic if the overall demand for corn, as reflected in the centralized exchange price for the commodity, did not bear on local prices."

In response to the Court's order, William Chaney addressed the thousands of solicitations that lawyers have been sending to farmers about the litigation. "Lots of lawyers are out there soliciting clients. Now that a class is certified, the Court will authorize mailing of a notice to corn producers within the class describing the benefits and consequences of remaining in the class. I urge any farmer considering whether to retain an individual lawyer to wait for the Court's notice before making a decision." The Court has not yet set a deadline for farmers to decide whether they want to be excluded from the class.

Downing, Stueve, Powell and Chaney have been working virtually full time on the case since they were appointed as co-lead counsel for the federal multi-district litigation (MDL) by Judge Lungstrum in January 2015. There are lawsuits pending in Kansas, Minnesota and Illinois. As Patrick Stueve explained, “Our group has taken the lead in getting discovery from Syngenta and in developing the expert witnesses that will be needed to prove both liability and damages. Our law firms have taken hundreds of hours of depositions all across the globe – in the United States, Hong Kong, London, and Australia. Our team has reviewed millions of pages of responsive documents.” In appointing them to represent the class, the Court found that that the “history of this litigation has demonstrated that [these lawyers] will diligently and ably prosecute the class claims.” It is anticipated that Judge Lungstrum will try the first MDL case against Syngenta in June 2017. “We are very excited about the strength of the case and look forward to presenting our evidence to a jury,” said Stueve.

The class certified by Judge Lungstrum covers farmers in every state. A copy of the order is available at www.syngentacornlitigation.com and provides specific information about the corn farmers covered by the certified classes. Agrisure Viptera and Duracade purchasers are excluded. The attorneys appointed to represent the class are with the law firms of: Gray Reed & McGraw, P.C.; Gray, Ritter & Graham, P.C.; Hare Wynn Newell & Newton; and Stueve Siegel Hanson LLP.