

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

In re: Syngenta Litigation

Case Type: Civil Other  
Hon. Thomas M. Sipkins

This Document Relates to: ALL ACTIONS

FILE NO. 27-CV-15-3785

**PRETRIAL ORDER #1 ON  
PROCEDURAL ISSUES**

The above-entitled matter came before the Honorable Thomas M. Sipkins, Judge of District Court, pursuant to the filing of a verified list of cases on July 2, 2015.

Attorneys for the parties are as noted in the files.

**INTRODUCTION**

This matter involves nationwide litigation against Syngenta Corporation, Syngenta Seeds, Inc., Syngenta Biotechnology, Inc., Syngenta Crop Protection LLC, and other related Syngenta entities (collectively "Syngenta Defendants"). In general, the cases allege the Syngenta Defendants unlawfully released, launched, or commercialized corn seeds containing a genetically modified trait, known as "MIR 162," that reportedly controls certain insects. Corn with this trait has entered U.S. corn stocks but the Chinese government has imposed a complete ban on U.S. corn with this trait. Plaintiffs allege that the Syngenta Defendants' actions have caused Plaintiffs to incur damages.

Cases involving these claims were filed in district courts throughout the State of Minnesota. In an Order dated May 22, 2015, the Minnesota Supreme Court transferred venue of all cases filed or pending in a Minnesota state district court other than Hennepin County against the Syngenta Defendants involving this subject matter to Hennepin County ("May 22, 2015 Order"). The Court then appointed the undersigned "to hear and decide all matters, including pretrial and trial proceedings" pursuant to Minn. Gen. R. Prac. 113.03 and Minn. Stat. §§ 2.724, 480.16 (2014).

Cases involving these claims were also filed in or removed to federal court. The Judicial Panel on Multidistrict Litigation transferred some of those actions for consolidated pretrial proceedings to the United States District Court, District of Kansas and assigned them to the Honorable John W. Lungstrum (“MDL”). On June 1, 2015, Judge Lungstrum remanded cases that “were removed to federal court solely on the bases of federal question jurisdiction based on the federal common law of foreign relations” back to the Minnesota state district courts where they were originally filed. Subsequently, federal cases that were not included in the MDL have been remanded back to Minnesota state courts pursuant to the stipulation of the parties. The Court intends to work closely with Judge Lungstrum in an effort to coordinate these matters with the MDL as much as possible.

Based on all the files, records and proceedings herein, the Court makes the following:

### **ORDER**

#### **IT IS HEREBY ORDERED THAT:**

1. Prior to the initial scheduling conference and entry of a comprehensive order governing all further proceedings in this case, the provisions of this Order shall govern the practice and procedure in those actions that are transferred to this Court pursuant to the May 22, 2015 Order. This Order will apply to any cases against the Syngenta Defendants involving these claims subsequently transferred to, remanded to, or initiated in this Court, without the necessity of future motions or orders.

#### **Consolidation**

2. The cases assigned to this matter are consolidated for pretrial purposes only. All cases involving the same subject matter against the Syngenta Defendants commenced in, transferred to, or remanded to Hennepin County are hereby consolidated into one action for all pretrial purposes pursuant to the May 22, 2015 Order and Minn. R. Civ. P. 42.01.

3. This consolidation does not constitute a determination that the actions should be consolidated for trial, nor does it have the effect of making any entity a party to any action in which he, she or it has not been named, served or added in accordance with the Minnesota Rules of Civil Procedure.

4. Until further order of the Court, all cases are consolidated into Court File No. 27-CV-15-3785. In the future, the Court will consider whether the cases should be divided into categories based on the type of plaintiff(s) or causes of action and the use of lead cases.

### **Filing Procedures**

5. When any new cases involving a new plaintiff or plaintiffs against the Syngenta Defendants relating to the same subject matter are filed, court administration will open a new case file (the “individual case file”) and require:

- a. The caption of a new filing shall read as follows:

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF HENNEPIN	FOURTH JUDICIAL DISTRICT

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In re: Syngenta Litigation

Thomas Jones,  
Plaintiff,

Court File No:  
Originating County: (County Name)  
(Producer/Non-Producer designation if known)

vs.

COMPLAINT

Syngenta Seeds, Inc., xxxxx,  
Defendants.

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- b. If opened by a new plaintiff, the new plaintiffs shall pay the applicable filing fee. The case will then be consolidated into the master file 27-CV-15-3785 for pretrial purposes and automatically placed into dormant status pending

any future more specific case management orders.<sup>1</sup>

- c. If Defendants submit a first filing (e.g. an Answer, a Notice of Removal, etc.) in any case previously opened by Plaintiff, that document should also be filed into the “individual case file” created by court administration and shall pay any applicable filing fee at that time.
- d. If the Defendants are the first to file a new case and plaintiffs submit a first filing (Summons, Complaint, Civil Cover Sheet, etc.) they shall be required to file into the “individual case file” and pay any applicable filing fee at that time.

6. Subject to the provisions of Paragraph 4 above for new filings, all subsequent orders, motions, and other documents that relate to an individual case shall be filed in Court File No. 27-CV-15-3785. Documents relating to all consolidated actions shall include in their caption the notation that “This Document Relates to: ALL ACTIONS.” Documents that relate to an individual case or less than all of the cases shall indicate in the caption the case number(s) of the case(s) to which they apply.

7. Any document which is to be filed in any of these actions shall be filed with the Clerk of this Court and not with the transferor court.

8. Hennepin County District Court is an electronic court and all filings shall be submitted electronically unless otherwise ordered by this Court. All attorneys are required to register for electronic filing and receive service of documents in Court File No. 27-CV-15-3785. The Court directs counsel to its website [www.mncourts.gov](http://www.mncourts.gov) for further information of electronic filing.

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<sup>1</sup> If a Notice of Removal to Federal Court is filed or an order consolidating the cases for all purposes is issued the case status will be changed from dormant to closed.

9. One courtesy copy of any document related to a motion shall be delivered to the Chamber of Judge Thomas M. Sipkins (via U.S. Mail or hand-delivery to the Hennepin County Government Center, 300 South Sixth Street, C-10, Minneapolis, MN 55487).

10. Proposed orders shall be efiled and emailed to [4thJudgeSipkinsChambers@courts.state.mn.us](mailto:4thJudgeSipkinsChambers@courts.state.mn.us). The subject line of the email shall state it applies to the Syngenta Litigation.

11. Other than proposed orders and other documents specifically requested by the Court, no other documents shall be emailed to the chambers' email address.

### **Initial Scheduling Conference**

12. Matters relating to pretrial and discovery proceedings in this case will be addressed at an initial scheduling conference on Friday, **July 31, 2015, at 9:00 a.m.** in Courtroom 1055 of the Hennepin County Government Center, 300 South Sixth Street, Minneapolis, MN 55487.

13. All attorneys are expected to be prepared to suggest procedures to facilitate the expeditious, economical and just resolution of this litigation. Counsel shall confer and seek consensus with respect to items on the agenda, including a proposed discovery plan, amendment of pleadings and consideration of procedures for resolving class action allegations and motions. Any proposals as to agenda items or proposed case management orders shall be submitted by **July 17, 2015**.

14. At the initial scheduling conference, the Court will discuss an organizational structure for counsel. Any counsel interested in seeking a leadership role in the organizational structure shall be present at the initial scheduling conference and shall, no later than **July 17, 2015**, submit a proposal addressing their qualifications for selection and any case specific issues that might inform the appropriate structure. The proposals shall be filed in Court File 27-CV-15-3785 with one paper courtesy copy submitted to chambers. As part of the organizational structure, the Court will likely appoint "lead counsel," "liaison counsel," and a "steering committee."

15. Plaintiffs and Defendants shall submit to chambers by email at [4thJudgeSipkinsChambers@courts.state.mn.us](mailto:4thJudgeSipkinsChambers@courts.state.mn.us) no later than **July 17, 2015**, a brief written statement which indicates their preliminary understanding of the facts involved in the litigation and the critical factual and legal issues. These statements will not be filed with the court, will not be binding, will not waive claims or defenses and may not be offered in evidence against a party at later proceedings. To the extent known, the statements shall list all pending motions and all related cases pending in state or federal court, together with their current status, including discovery taken to date. The parties shall be limited to one submission for all plaintiffs and one submission for all defendants.

16. Each party represented by counsel shall appear at the initial scheduling conference through an attorney who will have primary responsibility for the party's interest in this litigation.

#### **Prior Motions and Orders**

17. Pending the initial scheduling conference and further orders of this Court, all outstanding discovery proceedings are stayed, no further discovery shall be initiated, and the time requirements to perform any acts or file any papers are tolled.

18. Any motion that was pending before transfer to this consolidated action is not now pending. If a party wishes for a motion that was pending to be heard, that party must re-file the motion in this matter.

19. All Orders by transferor Courts imposing dates for pleadings, discovery, or motions are vacated.

#### **Special Master**

20. For any matters where the Court requires assistance, the Court intends to utilize John B. Van de North, Jr., Esq., a former Ramsey County District Court Judge, as a Special Master, and may utilize other individuals as Special Masters as may be necessary. The Court will issue a separate order governing the appointment.

**Other Instructions**

21. All cases assigned to this litigation, as well as any other actions subsequently transferred to, remanded to, or filed into this proceeding, shall be governed by the Minnesota Rules of Civil Procedure, Minnesota General Rules of Practice, and General Rules of Practice for the District Courts. The parties are expected to be familiar with these state and local rules, as well as electronic case filing procedures.

22. Attorneys admitted to practice and in good standing in the trial courts of any other jurisdiction are admitted *pro hac vice* in this litigation. The requirement of Minn. R. Gen. Prac. 5 that a lawyer duly admitted to practice in the State of Minnesota be present before the Court for any appearance is waived.

23. Pursuant to Minn. R. Civ. P. 5.04(b), discovery requests and responses will not be filed with the Court except when specifically ordered by the Court or to the extent offered in connection with a motion.

24. Each party shall preserve all documents and other records, including electronic information, containing information potentially relevant to the subject matter of this litigation. Each party shall also preserve any physical evidence or potential evidence and shall not conduct any testing that alters the physical evidence without notifying opposing counsel and, unless counsel stipulate to the test, without obtaining the Court's permission to conduct the test.

25. The Court expects cooperation and communication among the parties for efficient and orderly maintenance of these consolidated cases. No communication among Plaintiffs' counsel or among Defendants' counsel shall be taken as a waiver of any privilege or protection to which they would otherwise be entitled.

26. The Court will hold regularly scheduled status conferences. To minimize costs and facilitate manageable conferences, parties are not required to attend but shall be represented at the

conferences. Parties with similar interests are expected to agree to the extent practicable on a single attorney to act on their joint behalf at the conference. A party will not, by designating an attorney to represent its interests at the conference, be precluded from other representation during the litigation; and attendance at the conference will not waive objections to jurisdiction, venue or service. The Court intends to schedule these conferences on Fridays or Mondays for the convenience of out-of-state and outstate counsel.

**BY THE COURT:**

Dated: 7-7-2015

  
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Thomas M. Sipkins  
Judge of District Court

cc: Charles S. Zimmerman, Esq.  
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