

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

In re: Syngenta Litigation

This Document Relates to: ALL ACTIONS

Case Type: Civil Other
Honorable Thomas M. Sipkins

File No.: 27-CV-15-3785

**ORDER REGARDING BELLWETHER
TRIAL PLAINTIFF SELECTION AND
RANKING**

The above-entitled matter came before the Court on July 21, 2016.

WHEREAS, on November 4, 2015, the Court entered Scheduling Order No. 2 specifying that *inter alia*, “[o]n July 22, 2016, the Court will select four (4) cases to serve as individual bellwether trial cases, including at least one non-producer, and will rank them in the order in which each one will be tried.”

WHEREAS, on December 22, 2015, the Court entered an Order naming forty bellwether discovery plaintiffs.

WHEREAS, on June 20, 2016, the parties submitted an agreed list of four producer and two non-producer plaintiffs to serve as a pool of bellwether trial candidates.

WHEREAS, on July 11, 2016, the parties submitted competing proposals regarding the selection and ranking of bellwether trial plaintiffs.

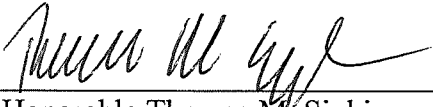
NOW THEREFORE, having reviewed the parties’ written submissions and being advised on the merits, the Court **HEREBY ORDERS**:

In accordance with Scheduling Order No. 2, the Court selects the following cases to serve as individual bellwether trial cases and ranks them in the following order in which each one will be tried:

1. **Daniel Mensik**, Nebraska Producer (Orig. Case No. 27-CV-15-16826 (Hennepin County)).
2. **Van Tilburg Farms**, Non-Producer (Orig. Case No. 27-15-13191 (Hennepin County)).
3. **Kirk Kuechenmeister**, Minnesota Producer (Orig. Case No. 27-CV-15-12102 (Hennepin County)) consolidated with **Charles W. Ledeboer**, Minnesota Producer (Orig. Case No. 34-CV-15-117 (Kandiyohi County), Hennepin County Case No. 27-CV-15-14070).
4. **Douglas Maher**, Iowa Producer (Orig. Case No. 27-CV-15-17386 (Hennepin County)).

BY THE COURT:

Dated: 7-21, 2016



The Honorable Thomas M. Sipkins
Judge of District Court

MEMORANDUM

Plaintiffs request the consolidation of trials for Minnesota Producer Plaintiffs Kuechenmeister and Ledeboer. The Court may order a joint trial of any or all matters in issue for actions involving common questions of law or fact. Minn. R. Civ. P. 42.01; Fed. R. Civ. P. 42(a). The Court must balance convenience against the possibility of prejudice. *See Green v. City of Coon Rapids*, 485 N.W.2d 712, 716 (Minn. Ct. App. 1992). “Unless common evidence predominates, consolidated trials may confuse the jury rather than promote efficiency.” *Manual for Complex Litigation*, Fourth, § 11.631. Here, Kuechenmeister and Ledeboer are both producers residing in Minnesota that grew similar amounts of corn. But neither planted Viptera or Duracade corn seed. The two cases thus involve common questions of law and fact governed by Minnesota substantive and procedural law. It appears at this time that the evidence regarding liability will largely be the same and non-common evidence would be limited to the issue of damages. Syngenta argues it will be prejudiced by not having the benefit of two different juries determine the cases in order to assess resolution of the remaining claims. There will, however, be other bellwether trials including another producer that did not grow Viptera or Duracade from Iowa. It is appropriate to consolidate the cases of Kuechenmeister and Ledeboer for trial because they involve common questions of law and fact, Minnesota law, and predominantly common evidence. In addition, the convenience and efficiency of consolidation outweigh any prejudice to Syngenta.

T.M.S.