

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

**IN RE: SYNGENTA AG MIR162
CORN LITIGATION**

MDL No. 2591

Case No. 14-md-02591-JWL-JPO

**This Document Relates to All Cases
Except:**

*Louis Dreyfus Co. Grains
Merchandising LLC v. Syngenta AG,*
No. 16-2788

Trans Coastal Supply Co., Inc. v.
Syngenta AG, **No. 14-2637**

The Delong Co., Inc. v. Syngenta AG,
No. 17-2614

Agribase Int'l Inc. v. Syngenta AG,
No. 15-2279

**STATE OF MINNESOTA
COUNTY OF HENNEPIN**

**DISTRICT COURT
FOURTH JUDICIAL DISTRICT**

In re: Syngenta Litigation

**Case Type: Civil Other
Hon. Laurie J. Miller**

**This Document Relates to: ALL
ACTIONS**

**FILE NO. 27-CV-15-12625
and FILE NO. 27-CV-15-3785**

**COXWELL & ASSOCIATES, PLLC'S MOTION
REGARDING ALLOCATION OF ATTORNEYS' FEES**

Coxwell & Associates, PLLC, as counsel for 369 individual Plaintiffs in the Minnesota Consolidated Action, hereby submits this Motion Regarding Allocation of Attorneys' Fees, requesting a Common Benefit Fees and some award of fees for the contracts that the firm has with each client. This Motion is being filed

contemporaneously in Hennepin County District Court, *In Re: Syngenta Litigation*, File Nos.: 27-CV-15-3785 and 27-CV-15- 12625 and is supported by the accompanying Memorandum of Law as well as the Declaration and exhibit.

COXWELL & ASSOCIATES, PLLC

Date: August 3, 2018

/s/ Merrida Coxwell

MERRIDA COXWELL (MB# 7782)

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Co-Lead Counsel for Individual Plaintiffs

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on this day, I electronically filed the foregoing document together with exhibits with the Clerk of Court using the CM/ECF system, which sent notification of such filing to all counsel of record and I have contemporaneously filed the identical document with exhibits in MN in the consolidated action. A copy has also been sent to the special masters.

Date: August 3, 2018

/s/ Merrida Coxwell

MERRIDA COXWELL (MB# 7782)

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**DECLARATION OF MERRIDA
COXWELL, MANAGING PARTNER OF
COXWELL & ASSOCIATES, PLLC, IN
SUPPORT OF MOTION REGARDING
ALLOCATION OF ATTORNEYS' FEES**

I, Merrida Coxwell, declare and state as follows:

1. I am a managing member at the law firm of Coxwell & Associates, PLLC

and I am duly authorized to make this declaration on its behalf.

2. I submit this declaration in support of Coxwell & Associates', PLLC Motion Regarding Allocation of Attorneys' Fees. I have personal knowledge of the matters set forth herein, and, if called as a witness could and would testify competently thereto.

3. I was a member of the MN team of lawyers led by Lou Remele, Rick Paul, Mikal Watts, and others who served as the trial team for trial Plaintiff Mensik. I was directed to fill out and complete Plaintiff Fact Sheets for those Plaintiffs. There was no option in this matter. It was required and failure to complete the Plaintiff Fact Sheets would result in dismissal of the Plaintiff's complaint. The time I spent on those Plaintiff Fact Sheets is set forth in the Excel documents, which has been prepared as directed by this Court. The facts of MN litigation is set out more fully in the Declaration of Lou Remele, filed in this Court as Document 3570. Those facts will not be repeated herein.

4. In addition to the Plaintiff Fact Sheets, I also worked with the MN counsel in the *Menisk* case to help prepare the case for trial. This included attending the Focus Groups, Exhibit Preparation Sessions, and attending the first trial, which ended in a mistrial. I was very conservative with my delineation of hours, though I spent numerous days in MN for those events and trial preparation. The work was approved by the MN counsel and is noted on the Excel Document, which is attached as an Exhibit to the Motion for Attorney Fees. The total attorney time that I could specifically track amounted to \$173,040.00. The total non-lawyer time amounted to \$6,384.00. These sums do not fully recognize the time put into the case because we began operating on a contingency fee and were not required under a contingency fee contract to maintain hours.

Fortunately, our electronic database trial management system-maintained client e-mails, client contacts, client letters, and client calls. Many of these matters were not necessarily related to Plaintiff Fact Sheets so we did not attempt to provide them on the Court directed Excel since they were beyond what the Court wanted to review. However, the contacts with the client-farmers was significant and continues to be as we help them with the settlement process. Those hours have not been recorded since they are ongoing in nature. The total number of clients that Coxwell & Associates, PLLC helped manage is approximately 369. Counsel has contingency fee contracts with each of the clients that they represent. There is no way to predict what would have been available to counsel if those contingency fees were honored, even if the Court reduces the fees. That calculation could only be made after all clients have submitted claim forms.

5. The expenses I incurred are included on the Excel Document.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed on this 3rd day of August 2018, at 500 North State Street, Jackson, MS 39201.

/s/ Merrida Coxwell

MERRIDA COXWELL (MB# 7782)

COXWELL & ASSOCIATES, PLLC

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**COXWELL & ASSOCIATES' MEMORANDUM OF
LAW REGARDING ALLOCATION
OF ATTORNEYS' FEES**

INTRODUCTION

Many other Motions and Memorandums have already been filed with this Court. This Memorandum will be short and to the point. Coxwell & Associates,

PLLC, was one of many lawyers who filed a civil action in MN State Court in the consolidated Syngenta litigation. As a requirement of that litigation, Coxwell & Associates, PLLC was directed to complete Plaintiff Fact Sheets for each client who filed a civil action in MN, and to obtain documents, or suffer having their Plaintiff's claims dismissed. The documents that we had to obtain included FSA forms for approximately four (4) years, seed purchase and crop sales form and crop insurance forms for the same number of years. All of these documents had to be obtained from the clients, or from the appropriate agency or grain operator. They then had to be organized by year and put into a PDF and provided to the MN counsel for the Kansas class counsel under a joint prosecution agreement. The process was excruciatingly slow, detailed and made all the more difficult by busy farmers. The details of the work of the MN lawyers, including the trial team, and the joint prosecution agreement are set forth in the Memorandum of Lou Remele, styled *Bassford Remele, P.A.'s Memorandum of Law Regarding Allocation of Attorney's Fees*, document number 3568. Those details and descriptions are adopted as if fully copied in words and figures herein.

In addition to completing the Plaintiff Fact Sheets, Coxwell & Associates, PLLC was invited at the request of the MN trial team to participate in trial preparation and attend trial. Merrida Coxwell attended Focus Groups, trial preparation and the first trial that ended in a mistrial. MN Consolidated Counsel authorized all of the time incurred by Merrida Coxwell. The time is accurately set forth in the Excel spreadsheet that this Court has directed to be filed in Order 2591. Coxwell & Associates, PLLC

had many more contacts, calls, and letters to clients that were not recorded on the Excel spreadsheet. Those were the calls or contacts to clients to keep them informed of the litigation, to mail documents, or to discuss the cases with Co-counsel or MN counsel. That time did not seem to be within the request by the Court however, it was real time. Counsel initially operated under contingency contracts with each of its clients. Those contracts are on file with Coxwell & Associates, PLLC. More time would have been available to present, and counsel would have recorded every single call, letter, e-mail, or contact if the attorneys had known that the contingency contracts might not be honored. Coxwell & Associates, PLLC. The actual time that Coxwell & Associates had recorded is listed on the Excel spreadsheet attached as an Exhibit to the Motion.

CONCLUSION

For the foregoing reasons, Coxwell & Associates, PLLC, respectfully requests that this Court award an appropriate fee for Common Benefit work performed for the time noted, and some additional portion, in the Court's discretion, for the 368 contracts with clients.

Date: August 3, 2018

/s/ Merrida Coxwell
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Coxwell & Associates, PLLC

LEGAL FEES		Approved Common Benefit Work		Other Work		Notes
TASK PERFORMED	TIMEKEEPER	Hours	Fees	Hours	Fees	
Complaint drafting	Attorneys					
	Contract Attorneys					
	Non-attorneys					
Dipositive motion briefing/argument	Attorneys					
	Contract Attorneys					
	Non-attorneys					
Class certification motion briefing and argument	Attorneys					
	Contract Attorneys					
	Non-attorneys					
DISCOVERY, DEPOSITIONS, DOC REVIEW						
Plaintiff fact sheet preparation/review		418.80	\$125,640.00			This includes emails to MN PEC on clients, who will be in civil actions. Data on clients transferred to PEC
	Attorneys					
	Contract Attorneys					
	Non-attorneys	201.00	\$4,221.00			
Paper discovery (Syngenta and third parties)	Attorneys					
	Contract Attorneys					
	Non-attorneys					
Paper discovery against plaintiffs	Attorneys					
	Contract Attorneys					
	Non-attorneys					
Discovery motion practice and communications with adverse parties	Attorneys					
	Contract Attorneys					
	Non-attorneys					
Fact depositions (Syngenta and third parties)	Attorneys					
	Contract Attorneys					
	Non-attorneys					
Defend fact depositions (of plaintiffs)	Attorneys					
	Contract Attorneys					
	Non-attorneys					
Discovery file management	Attorneys					
	Contract Attorneys					
	Non-attorneys					
EXPERT WORK, DAUBERT MOTIONS						
Plaintiffs' expert witness work (including development of report, defense of	Attorneys					
	Contract Attorneys					

depositions)	Non-attorneys					
Defendant expert witness work (depositions)	Attorneys					
	Contract Attorneys					
	Non-attorneys					
Daubert motion practice (plaintiff experts)	Attorneys					
	Contract Attorneys					
	Non-attorneys					
Daubert motion practice (defense experts)	Attorneys					
	Contract Attorneys					
	Non-attorneys					
PRETRIAL PREP, TRIAL, AND POST TRIAL						
Motions in limine	Attorneys					
	Contract Attorneys					
	Non-attorneys					
Trial (presenting witnesses and argument)	Attorneys					
	Contract Attorneys					
	Non-attorneys					
Trial briefing and jury instructions	Attorneys					
	Contract Attorneys					
	Non-attorneys					
Other pretrial motion practice	Attorneys					
	Contract Attorneys					
	Non-attorneys					
Post-trial briefing	Attorneys					
	Contract Attorneys					
	Non-attorneys					
SETTLEMENT AND SETTLEMENT ADMINISTRATION						
Pre-settlement communication with clients	Attorneys					
	Contract Attorneys					
	Non-attorneys					
Settlement negotiations	Attorneys					
	Contract Attorneys					
	Non-attorneys					
Assisting clients in perfecting claims in settlement	Attorneys	43.00	\$12,900.00			
	Contract Attorneys					
	Non-attorneys	103.00	\$2,163.00			
Preparation of fee petition	Attorneys					
	Contract Attorneys					
	Non-attorneys					

ADMINISTRATIVE						
Administrative work as court-appointed leadership	Attorneys					
	Contract Attorneys					
	Non-attorneys					
OTHER (describe in Notes)						
	Attorneys					First Focus Group and document exhibit creation; meet with team and aspearance before Judge Simpkins. Meeting to discuss MN and how we would be proceeding as trial approaches. Meeting at Lou Remele's office to go over Focus Group, trial strategy and large meeting among all of our groups. Trial preparation through second Focus Group, exhibit creation; attend trial for assistance. Emails to PEC and results of focus group.
	Contract Attorneys	115.00	\$34,500.00			
	Non-attorneys					
Total			\$178,424.00			