

UNITED STATES DISTRICT COURT DISTRICT OF KANSAS	
In re Syngenta AG MIR162 Corn Litigation THIS DOCUMENT RELATES TO ALL CASES EXCEPT: <i>Louis Dreyfus Company Grains Merchandising LLC v. Syngenta AG, et al.</i> , No. 16-2788-JWL-JPO <i>Trans Coastal Supply Company, Inc. v. Syngenta AG, et al.</i> , No. 2:14-cv- 02637-JWL-JPO <i>The Delong Co., Inc. v. Syngenta AG, et al.</i> , No. 2-17-cv-02614-JWL-JPO <i>Agribase International Inc. v. Syngenta AG, et al.</i> , No. 2:15-cv-02279-JWL- JPO	Civil File No.: 2:14-MD-02591-JWL-JPO MDL No. 2591

**DECLARATION OF LEWIS A. REMELE, JR.
IN SUPPORT OF RESPONSIVE MEMORANDUM
REGARDING ALLOCATION OF ATTORNEYS' FEES**

I, Lewis A. Remele, Jr., declare and state as follows:

1. I am a shareholder at the law firm of Bassford Remele, P.A. ("Bassford"), and am duly authorized by the owners, managers, or board of directors of the firm to make this declaration on its behalf.

2. I submit this declaration in support of Bassford's Responsive Memorandum of Law 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 am Co-Lead Counsel for all the individual cases in the Minnesota consolidated action.

4. I have served as a Special Master on multiple occasions, including in complex consolidated actions, and understand the challenge of determining appropriate fee awards in such cases.

5. Based on my experience as a Special Master, and on the recommendation of the Manual for Complex Litigation, I encouraged the attorneys involved in this litigation to enter an agreement that would allow for coordination, promote efficiency, and avoid fee disputes at the end of the case. As a result, the Kansas and Minnesota leadership groups entered into the Joint Prosecution Agreement ("JPA").

6. During our negotiations on the fee sharing provisions of the JPA, I understood that the Kansas co-leads wished to hedge against the possibility that class certification would be denied or that recovery by individual plaintiffs would be much larger than any class recovery. In either event, the Kansas co-leads understood that there was a risk that they would not be able to recover sufficient fees to cover the time and expenses they invested into the prosecution of the case.

7. As a result, the Kansas and Minnesota leadership groups entered into the JPA in part to address the risks facing each group, as well as to accomplish the goals set forth above. In that agreement, the Minnesota leadership group agreed to pay a portion of the

fees it recovered under their contingency fee agreements as compensation for use of common benefit work generated in the Kansas MDL. This agreement benefited the Kansas leadership by ensuring that they would be compensated for their work if class certification was denied or if the recoveries of individual plaintiffs far exceeded the recoveries of absent class members. In return, the Kansas leadership group agreed that they would not take any action to interfere with the Minnesota leadership group's ability to recover on its fee contracts. As such, the JPA was drafted at the outset of this litigation to reflect the appropriate balance between ensuring that Kansas was properly compensated for their common benefit work, while preserving the right of Minnesota counsel to seek recoveries on their fee contracts.

8. In the days immediately before the execution of the final Settlement Agreement, however, the Kansas co-leads entered into the "Fee Sharing Agreement," which directly interferes with the Minnesota leadership group's right to recover under their contingency fee agreements. In so doing, the Kansas co-leads not only breached their obligations under the JPA but have sought to undo the fee allocation arrangement that was negotiated and memorialized in the JPA to specifically deal with the situation that has now come to pass – namely where individual recoveries exceed the recoveries obtained by absent class members.

9. Not only did the JPA memorialize what the Kansas and Minnesota leadership groups agreed was a fair allocation of fees given the risks facing both groups, the Kansas and Minnesota leadership groups performed on the terms of the JPA throughout the litigation. Pursuant to the JPA, Minnesota leadership paid \$1,115,894 to Kansas leadership

for shared expert and discovery expenses. In addition, after settlement of the first Minnesota bellwether, the Minnesota leadership group paid the portion of the recovery that was agreed to in the JPA to the Kansas leadership group. Further, Minnesota and Kansas leadership coordinated all offensive discovery pursuant to the framework set out in the JPA, including the review of millions of Syngenta documents and the depositions of Syngenta and third-party witnesses. The Kansas leadership group proceeded pursuant to the binding terms of the JPA until they no longer felt it was to their advantage to do so.

10. I was not appointed to the Plaintiffs' Negotiating Committee and was not asked to provide input on the "Fee Sharing Agreement" that is being advanced by Kansas and Illinois. Although it appears all Kansas Co-Lead Counsel signed the "Fee Sharing Agreement," I was not asked to sign the agreement as Minnesota Co-Lead Counsel. I would not have signed the agreement if asked.

11. According to data obtained from the Minnesota District Court, 94,852 individual plaintiffs filed suit in Minnesota State Court. Of these 94,842 plaintiffs, I understand from the fee and expense application submitted by Watts Guerra LLP that it represents approximately 62,000 and that over 32,000 are represented by other firms.

12. It appears that the "Fee Sharing Agreement" advanced by Kansas and Illinois would pay Illinois counsel for work done in support of their contingency fee agreements but would not similarly compensate counsel in the Minnesota action for the same work done on behalf of the 94,852 individual plaintiffs that filed suit in Minnesota.

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

Executed on this 17th day of August, 2018, at 100 South 5th Street, Suite 1500, Minneapolis, MN 55402.

s/Lewis A. Remele, Jr.
Lewis A. Remele, Jr.

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