

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

In re: Syngenta Litigation and
 Syngenta Class Action Litigation

Case Type: Civil Other
 Honorable Laurie J. Miller

This Document Relates to:
**INDIVIDUAL CLAIMS AND
 CLASS ACTION**

Court File Nos.: 27-CV-15-3785 and
 27-CV-15-12625

PAUL LLP'S APPLICATION FOR FEES, COSTS, AND EXPENSES

Paul LLP performed a substantial amount of common benefit work as a member of the Plaintiffs' Executive Committee in both the federal and Minnesota MDLs and filed declarations in support of the federal and Minnesota class counsel fee application. In addition to the work performed for the benefit of all class members in this litigation, Paul LLP, together with several co-counsel firms, represents 1,641 clients who will recover under the settlement in this litigation. Paul LLP tracked simultaneously all time and expenses associated with work performed on behalf of their individual clients that was not billed as common benefit time or expenses. Since the settlement, Paul LLP has completed claim forms for the majority of these clients and has already returned 717 claims forms to the Claims Administrator.

For the reasons set forth herein, Paul LLP, on behalf of itself and its co-counsel, requests an award of attorneys' fees and expenses on its fee agreements with its clients.

I. Paul LLP Seeks Fees for their Individual Contracts

Paul LLP is aware that both the federal and Minnesota MDL Co-Lead Counsel are submitting extensive fee applications seeking an award of fees and costs and have documented in a detailed fashion the massive amount of common benefit work that was performed to bring about the global settlement. Paul LLP submitted declarations in support of those fee applications and will not re-hash the arguments in support of the position that the law firms that performed the common benefit work should, first and foremost, be fairly compensated for the work performed.

We are also aware that many law firms are submitting fee applications seeking an award of fees and expenses based on the individual representation agreements with clients participating in this settlement. We will not re-hash those arguments either on the assumption that the numerous other individual fee applications will exhaustively cover the issues. To the extent the Court awards fees based on individual fee agreements, and so that the Court is aware of the scope of the individual requests being made, Paul LLP submits this application for an award of fees for its individually-represented clients.

While it is unclear what structure the Court will use to award fees and expenses, it is critically important that the allocation process be transparent so that we can be assured that our clients do not pay more in fees and expenses than absent class members will pay under the Court's order; and as such, Paul LLP agrees to cap its fees at the percentage awarded class counsel notwithstanding the fee established by contract.

II. Paul LLP Separately Tracked Non-Common Benefit Time Spent Representing Its Clients

Paul LLP has signed 969 fee agreements with clients. Given the structure of the settlement, many of those fee agreements represent more than one “claim” to be submitted on a claim form because a single fee agreement may cover multiple entities under common ownership. We, thus, anticipate filing 1,155 claims to the settlement administrator. In fact, we have already submitted 717 claim forms to the settlement administrator and anticipate submitting the remainder over the course of the next 30 days. (Declaration of Richard Paul, attached as Ex. 1, ¶2).

In addition, Paul LLP entered into a co-counsel agreement with Coxwell & Associates, PLLC, which entered into fee agreements with a total of approximately 486 claims to be submitted. (Paul Dec., ¶3). Therefore, in total, Paul LLP represents a total of 1,641 clients submitting claims for recovery under this settlement. (Paul Dec., ¶4).

Paul LLP filed one of the early-filed cases in this litigation in the United States District Court for the Southern District of Iowa (*Payload Trucking v. Syngenta*) before the federal MDL was formed. That case was transferred to the District of Kansas. Paul LLP ultimately filed a total of 17 cases in, or that were transferred to, the District of Kansas. (Paul Decl., ¶5). Thereafter, even though Paul LLP was appointed to the PEC in the federal MDL, it became clear that we would have a much larger role in the Minnesota MDL. As a result, we began filing our clients’ cases in Minnesota. In total, Paul LLP filed 51 complaints on behalf of 1,557 clients. (Paul Decl., ¶6, List of cases filed, Ex. 2).

Throughout the course of this litigation, as it does with every case, Paul LLP contemporaneously tracked its time and expenses spent pursuing the interests of its clients, and did so separately from the common benefit fees and expenses incurred in both the federal and Minnesota MDLs. In total, Paul LLP and its co-counsel incurred \$1,877,757.00 in time and \$43,585.57 in expenses representing its clients' interests. (Paul Decl., ¶7). This time was tracked at the same standard hourly rates that Paul LLP used when submitting common benefit time each month to Co-Lead Counsel in both the federal and Minnesota MDLs.

III. Paul LLP Actively Represented Its Clients' Interests

Paul LLP began investigating potential claims arising out of Syngenta's actions leading to China's rejection of U.S. corn within days of the first ship being turned around at port in December 2013. Rick and others in the firm spent months gathering data, speaking to farmers, analyzing potential claims and damages, completing a thorough due diligence, and drafting detailed complaints on behalf of Arkansas, Missouri, Iowa, and Illinois farmers before ever filing a case.

Paul LLP also conducted extensive legal research, putting together a 50-state survey on the applicability of the economic loss doctrine (that was eventually used in both the federal and Minnesota MDLs in the drafting of the master consolidated complaints). Paul LLP also researched the Lanham Act, negligence, and a myriad of tort claims in each of the Corn Belt states. Before **any** case was filed against Syngenta, Paul LLP spent over 220

hours investigating and building the case against Syngenta.¹ Although this research was eventually provided to both the federal and Minnesota MDLs, because this time was pre-appointment to either PEC, Paul LLP did not submit this time as common benefit time.

Paul LLP's approach to client acquisition was simple—we literally got out in the field. Ashlea Schwarz and I spent months travelling across Missouri, Iowa, Illinois, and Nebraska, meeting in-person with farmers and elevator operators. This effort was critical not to acquiring clients, but to investigate their claims and prepare ourselves to build their cases for trial, including how the Chinese ban had affected them; how and when they made their purchase and sale decisions; what Syngenta's representatives had said to those that purchased Syngenta seed; and how Viptera compared to other seeds—among a plethora of other information. Days and nights were spent in the corn fields with farmers so as to accommodate planting and harvest.

Once litigation began in earnest, we sent regular updates to our clients by mail and email, and spoke to many of them regularly by phone. When the Courts ordered that all Plaintiffs submit detailed Plaintiff Fact Sheets, we spent over 1,452 hours gathering information and documents to complete the Plaintiff Fact Sheets for our clients. Our lodestar based solely on the effort of completing Plaintiff Fact Sheets was \$308,363.00. (Paul Decl., ¶8). Our co-counsel on many of the cases also spent significant time doing these same tasks. They spent 756.6 hours, and their lodestar was \$206,540.00. (*see e.g.*

¹ This time does not include any time spent acquiring clients.

Declaration of John Wilcox, attached as Ex. 3). In total, Paul LLP and its co-counsel submitted 1,084 Plaintiff Fact Sheets, along with tens of thousands of pages of supporting documents. (Paul Decl., ¶9). This was an intensely laborious process and was done with the expectation of recovering a fee based on the representation of Paul LLP's clients. In addition, we spent tens of thousands of dollars in out-of-pocket expenses that we expected would be recovered as part of the fees we recovered from our client contracts.

Once the classes were certified, our clients opted out of the class based on our commitment to litigate their claims individually. (Paul Decl., ¶10). Given the nature of the original term sheet, and the settlement process of including both class and individual counsel, our clients did not opt out of the settlement. Despite the ultimate structure of a global class settlement, Paul LLP committed to its clients that we would shepherd their claims through the settlement process. At this point in time, over 67% of Paul LLP's clients' claims forms have either been submitted and/or are complete and we expect to be at or very near 100% long before the claims deadline expires. Paul LLP has already spent over 436 hours working with clients and completing the claims forms.

CONCLUSION

Plaintiffs' Counsel's request for one-third of the common fund as an attorneys' fee, plus reimbursement of their costs and expenses, is amply supported by the applicable legal standard and the excellent result Plaintiffs' Counsel achieved for all corn farmers. To the extent the Court awards fees based on individual contingency contracts in addition

to the common benefit work, Paul LLP, on behalf of itself and its co-counsel, respectfully request they too receive compensation on their individual client contracts.

Dated: July 10, 2018

Respectfully submitted,

PAUL LLP

/s/ Richard M. Paul III

Richard M. Paul III

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

The undersigned hereby certifies on July 10, 2018, I electronically filed the foregoing with the Court's electronic filing system, which sent notification of such filing to all counsel of record.

/s/ Richard M. Paul III

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**DECLARATION OF RICHARD M. PAUL III IN SUPPORT OF
 PAUL LLP'S APPLICATION FOR FEES, COSTS, AND EXPENSES**

I, Richard M. Paul III, declare as follows:

1. I am the managing partner of the law firm Paul LLP, counsel of record in this case.

I make this declaration in support of Plaintiffs' application for fees, costs, and expenses based on my personal knowledge and if called to testify to the contents hereof, I could and would competently do so.

2. Paul LLP has signed 969 fee agreements with clients. Given the structure of the settlement, many of those fee agreements represent more than one "claim" to be submitted on a claim form because a single fee agreement may cover multiple entities under common ownership. We, thus, anticipate filing 1,155 claims to the settlement administrator. In fact, we have already submitted 717 claim forms to the settlement administrator and anticipate submitting the remainder over the course of the next 30 days.

3. In addition, Paul LLP entered into a co-counsel agreement with Coxwell & Associates, PLLC, which entered into fee agreements with a total of approximately 486 claims to be submitted.

4. Therefore, in total, Paul LLP represents a total of 1,641 clients submitting claims for recovery under this settlement.

5. Paul LLP filed one of the early-filed cases in this litigation in the United States District Court for the Southern District of Iowa (*Payload Trucking v. Syngenta*) before the federal MDL was formed. That case was transferred to the District of Kansas. Paul LLP ultimately filed a total of 17 cases in, or that were transferred to, the District of Kansas.

6. Thereafter, even though Paul LLP was appointed to the PEC in the federal MDL, it became clear that we would have a much larger role in the Minnesota MDL. As a result, we began filing our clients' cases in Minnesota. In total, Paul LLP filed 51 complaints on behalf of 1,557 clients.

7. In total, Paul LLP and its co-counsel incurred \$1,877,757.00 in time and \$43,585.57 in expenses representing its clients' interests.

8. When the Courts ordered that all Plaintiffs submit detailed Plaintiff Fact Sheets, we spent over 1,452 hours gathering information and documents to complete the Plaintiff Fact Sheets for our clients. Our lodestar based solely on the effort of completing Plaintiff Fact Sheets was \$308,363.00.

9. In total, Paul LLP and its co-counsel submitted 1,084 Plaintiff Fact Sheets, along with tens of thousands of pages of supporting documents.

10. Once the classes were certified, our clients opted out of the class based on our commitment to litigate their claims individually.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 10th day of July, 2018.

/s/ Richard M. Paul III
 Richard M. Paul III

2:15-cv-9593 Koeller, et al. v. Syngenta AG, et al.
4:14-cv-00415 Payload Trucking, Inc. v. Syngenta AG, et al.
4:14-cv-00483 Buckingham v. Syngenta AG, et al.
4:14-cv-00432 Dykes v. Syngenta AG, et al.
4:14-cv-00438 Smith v. Syngenta AG, et al.
4:14-cv-00426 Diamond B Farms, LLC v. Syngenta AG, et al.
4:14-cv-00439 Eason Feed Lot, LLC v. Syngenta AG, et al.
4:14-cv-00428 Graham v. Syngenta AG, et al.
4:14-cv-00427 Hullinger v. Syngenta AG, et al.
4:14-cv-00434 Tri-K LLC, et al. v. Syngenta AG, et al.
4:14-cv-00431 Norman v. Syngenta AG, et al.
4:14-cv-00435 O&W Ag Enterprises, Inc. v. Syngenta AG, et al.
4:14-cv-00437 Rumley v. Syngenta AG, et al.
4:14-cv-00433 Smaniotto v. Syngenta AG, et al.
4:14-cv-00484 Stevenson v. Syngenta AG, et al.
4:14-cv-00436 Stone v. Syngenta AG, et al.
4:14-cv-00485 Wilson v. Syngenta AG, et al.
27-cv-15- Redman v. Syngenta Seeds, Inc.
27-cv-16-8652 4815 Capitol LLC, et al. v. Syngenta Corporation, et al.
27-cv-16-8276 Aarhus Corporation, et al. v. Syngenta Corporation, et al.
27-cv-16-8296 Adwell, et al. v. Syngenta Corporation, et al.
27-cv-17-13754 Akers, et al. v. Syngenta Corporation, et al.
27-cv-16-8409 Ashbrooks, et al. v. Syngenta Corporation, et al.
27-cv-16-8286 Ballard, et al. v. Syngenta Corporation, et al.
27-cv-16-8279 Bartholomew Farms Ltd, et al. v. Syngenta Corporation, et al.
27-cv-16-8413 Bernhard, et al. v. Syngenta Corporation, et al.
27-cv-17-13750 BLD Farms, Ltd, et al. v. Syngenta Corporation, et al.
27-cv-15-17950 Branstad Farm Cattle Lot v. Syngenta Corporation, et al.
27-cv-15-17952 Burco Farms v. Syngenta Corporation, et al.
27-cv-17-1282 C&J Miller Farms LLC, et al. v. Syngenta Corporation, et al.
27-cv-16-8275 Clement, et al. v. Syngenta Corporation, et al.
27-cv-15-17953 Chism v. Syngenta Corporation, et al.
27-cv-15-17965 Berkland v. Syngenta Corporation, et al.
27-cv-15-17966 Bruns v. Syngenta Corporation, et al.
27-cv-17-14303 Diekmann, et al. v. Syngenta Corporation, et al.
27-cv-16-8278 Dumstorff, et al. v. Syngenta Corporation, et al.
27-cv-16-8300 Federer, et al. v. Syngenta Corporation, et al.
27-cv-15-17975 Anderson v. Syngenta Corporation, et al.
27-cv-16-8282 Hitt, et al. v. Syngenta Corporation, et al.
27-cv-17-16592 Kludt Brothers, Inc, et al. v. Syngenta Corporation, et al.
27-cv-16-8412 Myers, et al. v. Syngenta Corporation, et al.
27-cv-16-18209 O'Hair Farms LLC, et al. v. Syngenta Corporation, et al.
27-cv-16-8272 Oswald, et al. v. Syngenta Corporation, et al.
27-cv-16-8291 Senesac, et al. v. Syngenta Corporation, et al.
27-cv-16-8270 Tasker, et al. v. Syngenta Corporation, et al.
27-cv-16-8283 Weis, et al. v. Syngenta Corporation, et al.
27-cv-17-4348 White, et al. v. Syngenta Corporation, et al.

27-cv-15- Matawan Grain and Feed, Inc. v. Syngenta Seeds, Inc.
27-cv-17-18308 Boswell Brothers Elevator, Inc. v. Syngenta Corporation, et al.
27-cv-15-18309 Smith Feeder Supply, Inc. v. Syngenta Corporation, et al.
27-cv-15-18798 Wilkins North Elevator v. Syngenta Corporation, et al.

