

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

IN RE SYNGENTA AG MIR162 CORN
LITIGATION

Master File No. 2:14-MD-02591-JWL-JPO

THIS DOCUMENT RELATES TO
ALL CASES EXCEPT:

MDL No. 2591

*Louis Dreyfus Company Grains
Merchandising LLC v. Syngenta AG, et
al., No. 16-2788-JWL-JPO*

*Trans Coastal Supply Company, Inc. v.
Syngenta AG, et al., No. 2:14-cv-02637-
JWL-JPO*

*The Delong Co., Inc. v. Syngenta AG et al.,
No. 2:17-cv-02614-JWL-JPO*

*Agribase International Inc. v. Syngenta
AG, et al., No. 2:15-cv-02279*

**PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT,
PROVISIONAL CERTIFICATION OF SETTLEMENT CLASS AND SUBCLASSES,
APPOINTMENT OF SETTLEMENT CLASS COUNSEL, SUBCLASS COUNSEL, AND
CLASS REPRESENTATIVES, APPROVAL TO DISSEMINATE THE CLASS NOTICE,
APPOINTMENT OF THE NOTICE ADMINISTRATOR AND CLAIMS
ADMINISTRATOR AND SPECIAL MASTERS, AND ADOPTION
OF A SCHEDULE FOR THE FINAL APPROVAL PROCESS**

On February 26, 2018, Plaintiffs and the Syngenta Defendants¹ entered into a Settlement Agreement ("Settlement"), attached as Exhibit A to Plaintiffs' contemporaneously filed Memorandum in Support of this Motion ("Memorandum"). For the reasons stated in their Memorandum and supporting materials, Plaintiffs move for the following relief:

¹ "Syngenta" refers collectively to the various Syngenta affiliates that were named as defendants in this litigation (Syngenta AG, Syngenta Corporation, Syngenta Crop Protection AG, Syngenta Crop Protection LLC, Syngenta Biotechnology, Inc., and Syngenta Seeds, LLC (f/k/a Syngenta Seeds, Inc.)), collectively with all of their affiliates and predecessor and successor entities, which are parties to the Settlement.

1. Provisional certification of the following Settlement Class and four Subclasses for settlement purposes only:

Any Person in the United States that during the Class Period owned any Interest in Corn in the United States priced for sale during the Class Period and falls into one of the four sub-classes:

- a. Subclass 1: Any Producer in the United States that, during the Class Period owned any Interest in Corn in the United States priced for sale during the Class Period, excluding Producers that, at any time prior to the end of the Class Period, purchased Agrisure Viptera Corn Seed and/or Agrisure Duracade Corn Seed and produced Corn grown from Agrisure Viptera Corn Seed and/or Agrisure Duracade Corn Seed. (“Non-Viptera/Duracade Purchaser Subclass”);
- b. Subclass 2: Any Producer in the United States that during the Class Period owned any Interest in Corn in the United States priced for sale during the Class Period and that, at any time prior to the end of the Class Period, purchased Agrisure Viptera Corn Seed and/or Agrisure Duracade Corn Seed and produced Corn grown from Agrisure Viptera Corn Seed or Agrisure Duracade Corn Seed. (“Viptera/Duracade Purchaser Subclass”);
- c. Subclass 3: Any Grain Handling Facility in the United States that during the Class Period owned any Interest in Corn in the United States priced for sale during the Class Period. (“Grain Handling Facility Subclass”);
- d. Subclass 4: Any Ethanol Production Facility in the United States that during the Class Period owned any Interest in Corn in the United States priced for sale during the Class Period. (“Ethanol Production Facility Subclass”).²

² Excluded from the Settlement Class are: (a) the Court and its officers, employees, appointees, and relatives; (b) Syngenta and its affiliates, subsidiaries, officers, directors, employees, contractors, agents, and representatives; (c) all plaintiffs’ counsel in the MDL Actions or the Related Actions; (d) government entities; (e) those who opt out of the Settlement Class; and (f) “Excluded Exporters.” Excluded Exporter means Archer Daniels Midland Company, Bunge North America, Inc., Cargill, Incorporated, Cargill, International SA, Louis Dreyfus Company, BV, Louis Dreyfus Company, LLC, Louis Dreyfus Company Grains Merchandising, LLC, Gavilon Grain, LLC, Trans Coastal Supply Company, Inc., Agribase International Inc., or the Delong Co. Inc., and their respective parent(s) and each of their predecessors, affiliates, assigns, successors, related companies, subsidiary companies, holding companies, insurers, reinsurers, current and former attorneys, and their current and former members, partners, officers, directors, agents, and employees, in their capacity as such, any licensees, distributors, retailers, seed dealers, seed advisors, other resellers, and their insurers, and affiliates, in their capacity as

2. Appointment of the following Plaintiffs named in the Producer Plaintiffs' Fourth Amended Master Class Action Complaint as Representative Plaintiffs:

- a. For the Non-Viptera/Duracade Purchaser Subclass: Mike DaVault, Bradley DaVault, and David DaVault d/b/a DaVault ArkMo Farms; Steven A. Wentworth ; Charles B. Lex; Five Star Farms; the "Grafel entities" (Beaver Creek Farms, Inc., Demmer Farms, Inc., Grafel Farms, LLC, and D. and S. Grain & Cattle Co.); David Polifka; David Polifka Revocable Living Trust; Bottoms Farms Partnership; JPPL, Inc.; NEBCO, Inc.; TRIPLE BG Partnership; David Schwaninger; Kaffenbarger Farms, Inc.; Bieber Farm; Rolling Ridge Ranch, LLC; Grant Annexstad; Roger Ward; and, Leroy Edlund.
- b. For the Viptera/Duracade Purchaser Subclass: Robert & Todd Niemeyer (Custom Farm Services LLC); Charles Cobb (CE Cobb Farms); and, Marvin Miller.
- c. For the Grain Handling Facility Subclass: Kruseman Fertilizer Company.
- d. For the Ethanol Production Facility Subclass: Al-Corn Clean Fuel, LLC.

3. Appointment of Christopher A. Seeger, Daniel E. Gustafson, and Patrick J. Stueve as Settlement Class Counsel and Subclass Counsel for the Non-Viptera/Duracade Purchaser Subclass; Lynn R. Johnson as Subclass Counsel for the Viptera/Duracade Purchaser Subclass; Kenneth A. Wexler for the Grain Handling Facility Subclass; and James E. Cecchi as Subclass Counsel for the Ethanol Production Facility Subclass.

4. Preliminary approval of the Settlement, approval of the claims process, notice plan, including the Long Form Notice and Publication Notice, and permission to disseminate notice in accordance with the requirements of Rule 23 and Due Process pursuant to the terms of the Notice Plan described in Plaintiffs' Memorandum.

such. Excluded Exporter does not include, however, any Grain Handling Facilities or Ethanol Production Facilities, except those operated, owned (in whole or in part, directly or indirectly), or administered by one of the entities specifically listed in this paragraph.

5. Appointment of BrownGreer PLC as Notice Administrator and Claims Administrator for this Settlement.

6. Appointment of Ellen K. Reisman and the Honorable Daniel Stack (ret.) as Special Masters to oversee various aspects of the settlement as set forth in the Settlement Agreement.

7. The setting of deadlines as set forth in Plaintiffs' Memorandum and the scheduling of a Fairness Hearing, at which the Court will hear argument on the fairness, adequacy and reasonableness of the Settlement, the award of attorneys' fees and costs, and entertain any objections to the Settlement.

8. All other relief requested in Plaintiffs' Memorandum and the proposed order submitted therewith.

Dated: March 12, 2018

Respectfully Submitted,

/s/ Patrick J. Stueve

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***Proposed Subclass Counsel
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Facility Subclass (Subclass 4)***

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on March 12, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to all counsel of record.

/s/ Patrick J. Stueve
Plaintiffs' Co-Lead, Liaison, and Class Counsel for
Plaintiffs