

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Case Type: Civil Other

In re: Syngenta Litigation

FILE NO. 27-CV-153785

Judge: Thomas M. Sipkins

This Document Relates to: ALL ACTIONS

[PROPOSED] COMMON
BENEFIT ORDER

On August 5, 2015, this Court entered its Order Appointing Lead Counsel and appointed Lewis A. Remele Jr. and Francisco Guerra IV as Co-Lead Counsel for the named plaintiffs in this proceeding and delegated to counsel 15 itemized duties in connection with the conduct of this proceeding, all for the common benefit of such plaintiffs. (¶ 1) Further, this Court appointed William R. Sieben and Daniel E. Gustafson as Co-Lead Interim Class Counsel for the putative class members in this proceeding. (¶ 2) Further, this Court appointed Robert K. Shelquist as Liaison Counsel for the named plaintiffs in this proceeding (¶ 3) and an Executive Committee consisting of Messrs. Remele, Guerra, Sieben, Gustafson, and Shelquist and five additional counsel, including Richard M. Paul III, Will Kemp, Tyler W. Hudson, Clayton A. Clark, and Paul Byrd. (¶ 4)

This Court appointed Co-Lead Counsel and the Executive Committee to lead this proceeding on behalf of the named plaintiffs and the putative class members, and, in connection with their appointments, each shall be compelled to invest material time and

money in the discharge of their duties for the common benefit of such plaintiffs, as well as all Producers and Non-Producers. The purpose of this Order is to establish a framework to ensure the potential for fair and reasonable compensation to those counsel who perform Common Benefit Work and incur Common Benefit Expenses.

I. DEFINITIONS.

For purposes of this Order –

“Administrator” means an independent professional, e.g., a CPA, appointed by subsequent Order of this Court to serve as Escrow Agent over the Common Benefit Funds. The Administrator’s duties shall include, among other things, to (1) oversee and approve activity in the Funds, (2) provide Co-Lead Counsel periodic reporting in connection with such activity, and (3) timely make all applicable tax filings.

“Common Benefit Assessment” means this Court’s assessment against the Gross Recoveries of Producers and/or Non-Producers for the payment of Common Benefit Awards.

“Common Benefit Awards” means common benefit awards made by this Court to counsel who performed Common Benefit Work and incurred Common Benefit Expenses.

“Common Benefit Expenses” means expenses incurred by counsel who performed Common Benefit Work, which work compelled such expenses.

“Common Benefit Expense Fund” means a fund created to hold Common Benefit Assessments for the purpose of reimbursing Common Benefit Expenses.

“Common Benefit Fees” means fees awarded by this Court to counsel who perform Common Benefit Work.

“Common Benefit Fee Fund” means a fund created to hold Common Benefit Assessments for the purpose of paying Common Benefit Fees.

“Common Benefit Funds” means the Common Benefit Expense Fund and the Common Benefit Fee Fund.

“Common Benefit Rules” means the rules adopted, and amended from time to time, by Co-Lead Counsel, which rules govern how and when counsel may perform Common Benefit Work and incur Common Benefit Expenses and submit their related time and expenses to Co-Lead Counsel.

“Common Benefit Work” means work performed by or for Co-Lead Counsel in furtherance of their duties in this proceeding, which work is performed for the common benefit of all Producers and Non-Producers.

“MN Participation Agreement” means attached Exhibit A.

“Participating Counsel” means counsel who signed the MN Participation Agreement.

“Federal Coordination Order” means the Coordination Order entered in MDL No. 2591. (ECF Doc. 1099)

“Federal MDL” means MDL No. 2591.

“Federal MDL Court” means U.S. District Judge John W. Lungstrum and U.S. Magistrate Judge James P. O’Hara in the United States District Court for the District of Kansas.

“Federal MDL Leadership” means those counsel appointed in MDL No. 2591 to lead such coordinated proceeding on behalf of the plaintiffs. (ECF Doc. 67)

“Gross Recovery” means all payments, which may be subject to a Common Benefit Assessment, made by one or more Defendants to a Producer and/or Non-Producer in partial or total satisfaction of a (1) settlement agreement between such producer and/or non-producer and one or more Defendants or (2), judgment taken by such producer and/or non-producer against one or more Defendants, to the extent covered by this Order as set forth herein.

“MN MDL” means this proceeding.

“MN MDL Leadership” means the Executive Committee in this proceeding.

“Producers and Non-Producers” means producers and non-producers who possess claims against one or more Defendants in connection with Defendants’ launch of its Agrisure Viptera® and Agrisure Duracade™ corn seed.

“Recovery” means a payment, which may be subject to a Common Benefit Assessment, made by one or more Defendants to a Producer and/or Non-Producer in partial or total satisfaction of a (1) settlement agreement between such producer and/or

non-producer and one or more Defendants or (2) judgment taken by such producer and/or non-producer against one or more Defendants, to the extent covered by this Order as set forth herein.

II. TO WHOM COMMON BENEFIT ASSESSMENT APPLIES.

This Court's Common Benefit Assessment shall apply to counsel for all Producers and Non-Producers, along with their counsel: (1) who file a case that is included in this proceeding, regardless of the ultimate disposition of such case; (2) who make a Recovery in connection with this proceeding, e.g., participate in a settlement administered by this Court; and/or, (3) whose counsel signed the MN Participation Agreement, regardless of whether or where such producer and/or non-producer file his/her/its case or the ultimate disposition of such case.

In the event that there is a class settlement, recovery or judgment in favor of a class covered by this Order, no assessment pursuant to this Section will be made, either for attorneys' fees or for expenses, individually from any class member or his/her/its individual attorney as to the portion of any class recovery distributed to that individual class member if the class member remains in the class (i.e., does not opt-out of the class). Instead, all fees and expenses for that class member will come out of the overall class recovery funds provided by defendants, as approved by the Court, or as otherwise Ordered by the Court. The relationship between class counsel fees and costs obtained through any class settlement or judgment and the Common Benefit Fund will be

addressed, if necessary, by later order of the Court.

III. WITH WHOM COMMON BENEFIT WORK MAY BE SHARED

Counsel may share Common Benefit Work with Producers and/or Non-Produced, along with their counsel, to whom this Court's Common Benefit Assessment applies. Counsel may not share Common Benefit Work with any other persons or entities.

IV. MINNESOTA PARTICIPATION AGREEMENT.

The purpose of the MN Participation Agreement is to create a joint prosecution agreement to control the plaintiffs' work together in connection with their prosecution of claims possessed by Producers and Non-Produced in this proceeding. Participating Counsel, on behalf of themselves, their clients, and their co-counsel, desire to use and/or benefit from Common Benefit Work and Common Benefit Expenses, as well as other benefits detailed in such agreement. Similarly, Co-Lead Counsel and the Executive Committee desire for Participating Counsel, on behalf of itself, its clients, and its co-counsel, to use and/or benefit from such work, expenses, and other benefits; and, in exchange for same, for Participating Counsel, its clients, and its co-counsel, to submit to the jurisdiction of this Court and abide by this Court's orders applicable to such use and/or benefits.

V. COMMON BENEFIT WORK AND EXPENSES.

A. Authority to Perform Work and Incur Expenses.

Only counsel authorized in writing by one of Co-Lead Counsel may perform Common Benefit Work or incur Common Benefit Expenses and be eligible for a Common Benefit Award at the conclusion of this proceeding. All other counsel shall be ineligible for a Common Benefit Award at the conclusion of this proceeding.

B. Rules in Connection with Performing Work, Incurring Expenses, and Submitting Counsel's Related Time and Expenses.

Co-Lead Counsel shall adopt, and may from time to time amend, the Common Benefit Rules; and, Co-Lead Counsel shall distribute such rules to those counsel performing Common Benefit Work and incurring Common Benefit Expenses; provided, such rules shall include, among other things:

1. All counsel performing Common Benefit Work and incurring Common Benefit Expenses shall submit proof of their related time and expenses to Bassford Remele on a monthly basis; the first such submission shall cover the period from August 5, 2015 through November 30, 2015;

2. Bassford Remele shall designate a person from Mr. Remele's office to receive and review each such submission; and, such person shall have the duty to compare each such submission with the Rules, identify non-conforming time and expenses, if any, work such issues with counsel who made such submission, attempt to

resolve such issues, and then make a preliminary determination as to the portions of the submission that are approved and the portions, if any, of the submission that are rejected;¹

3. All time in connection with Common Benefit Work shall be reasonable in amount and supported by a contemporaneous record reflecting such time; similarly, all Common Benefit Expenses shall be reasonable in amount and supported by receipts reflecting such expenses; provided, counsel need not produce a receipt for such expenses in an amount less than \$50.00; and only counsel authorized in writing by one of Co-Lead Counsel may incur a Common Benefit Expense in an amount more than \$1,000.00;

4. At the conclusion of this proceeding, this Court shall make the ultimate determination regarding whether to accept or reject each submission.

C. CAPITAL ASSESSMENTS.

1. Co-Lead Counsel may from time to time make capital

¹ The purpose of this process is to ensure that Co-Lead Counsel, and others performing Common Benefit Work and incurring Common Benefit Expenses on behalf of Co-Lead Counsel, receive timely feedback as to whether (1) counsel's submissions are conforming submissions and (2) the amount of reported time and expense is consistent with Co-Lead Counsel's expectations; this to enable Co-Lead Counsel to more efficiently manage the conduct of Common Benefit Work and the incurrence of Common Benefit Expenses from the outset of this proceeding and provide those performing such work and incurring such expenses some comfort that if their submissions are non-conforming, they will receive notice of same from the outset of this proceeding (rather than at the conclusion of this proceeding).

assessments from the Executive Committee for the purpose of reimbursing the Executive Committee for certain Common Benefit Expenses. Co-Lead Counsel shall distinguish those expenses that shall be reimbursed to the members of the Executive Committee periodically throughout this proceeding and, conversely, those expenses that shall be held by the members of the Executive Committee until the conclusion of this proceeding.

2. Capital assessments shall be reasonable in amount; and, each member of the Executive Committee shall promptly contribute his/her pro rata share of such assessments.

VI. COMMON BENEFIT ASSESSMENTS.

A Producer shall pay a Common Benefit Assessment in the amount of 11% of such producer's Gross Recovery, which will consist of an 8% fee assessment and a 3% expense assessment. A Non-Producer shall pay a Common Benefit Assessment in the amount of 9% of such non-producer's Gross Recovery, which will consist of a 7% fee assessment and a 2% expense assessment.

Each Producer and Non-Producer shall be entitled to a dollar-for-dollar set off—in the amount of the common benefit assessment, if any, required to be paid by such producer and/or non-producer in the Federal MDL—against such producer's and/or non-producer's obligation to pay a Common Benefit Assessment under this Order. Such set-offs shall be made prior to the depositing of any holdback amount into

the Common Benefit Funds.

VII. COMMON BENEFIT FUNDS.

Co-Lead Counsel shall open and maintain two bank accounts: one to serve as the Common Benefit Expense Fund; and, one to serve as the Common Benefit Fee Fund. Further, Co-Lead Counsel shall engage an Administrator; and, such person's fees and expenses shall be Common Benefit Expenses.

VIII. COMMON BENEFIT HOLDBACKS.

Defendants shall hold back² and set aside for placement into the Common Benefit Funds the amounts prescribed by this Section. Defendants shall not distribute any proceeds, whether by settlement or in satisfaction of a judgment, to any plaintiff's counsel (or directly to a plaintiff) in cases covered by this Order until after: (1) Defendants' counsel notifies Co-Lead Counsel in writing of the existence (but not the amount) of a pending Recovery, and (2) Co-Lead Counsel has advised Defendants' counsel and the Administrator in writing of the percentage of such Recovery to be held back from the plaintiff's Gross Recovery, and provided a certification as to whether the Gross Recovery is subject to an assessment in the Federal MDL along with what the applicable assessment percentage is with respect to the Federal MDL. Co-Lead Counsel

² In the event any defendant fails to hold back the assessments required by this Section, plaintiff's counsel has an equal duty to pay the appropriate holdback amounts to the Common Benefit Funds. Under all scenarios (except to the extent the attorney is being paid an hourly rate), the fee assessment shall be paid from the attorney's portion of the recovery and shall not be borne by the client.

shall provide such certification within 5 business days after receiving Defense Counsel's notification, with a copy to the Federal MDL Leadership. For cases subject to an assessment under this Order, Defendants are directed to withhold the applicable assessment from any and all amounts paid to plaintiffs and their counsel (after deducting the percentage due pursuant to the Common Benefit Order in the Federal MDL, as specified in the certification provided by Co-Lead Counsel) and to pay the resulting amount directly into the Common Benefit Funds as a credit against the settlement or judgment. No notice or order of dismissal of any plaintiff's case that is subject to this Order shall be entered unless accompanied by a certificate of plaintiffs' and defendant's counsel that the assessment, if applicable, will be withheld and will be deposited into the Common Benefit Funds at the same time the settlement proceeds are paid to settling counsel.

Upon receipt of a hold back by the Administrator, he/she shall determine whether such holdback is in the correct amount. The Administrator shall provide written notice to the applicable Producer's and/or Non-Producer's counsel, Defendants, and Co-Lead Counsel that the holdback is in the correct amount. If any dispute arises between Co-Lead Counsel and Federal MDL Leadership as to the amount of any funds allegedly due pursuant to the Common Benefit Order in the Federal MDL, the disputed amount shall be held in escrow pursuant to procedures specified by this Court and the Federal MDL Court until the resolution of such dispute, unless otherwise agreed by Co-

Lead Counsel and Federal MDL Leadership or otherwise specified by Court Order. Defendants' full and complete payment of the holdback amount and the required verification from the Administrator shall discharge Defendants' and Defendants' counsel's obligations and responsibilities with respect to the deposited funds, including any disputes between or among plaintiffs and plaintiffs' counsel as to the allocation of such funds.

To preserve the confidentiality of settlement amounts, if such confidentiality is agreed to by the settling parties in their settlement agreement(s), details of any individual settlement agreement, individual settlement amount, and/or amounts deposited into escrow by any particular defendant shall be confidential and shall not be disclosed by the Administrator to anyone other than the Court, upon request or by Order of the Court. Monthly statements from the Administrator shall be provided to Co-Lead Counsel (and, if the Court so requests, to the Court) showing only the total quarterly deposits from all Defendants, any disbursements, interest earned, and financial institution charges, if any, and the current balance.

IX. Reporting Obligations

Co-Lead Counsel shall provide Defendants, the Administrator, and the Court, if requested, with a list of cases, if filed, and counsel who are subject to signed MN Participation Agreements. This same list shall be made available to all plaintiffs' counsel with cases in the MN MDL, as well as any other plaintiffs' counsel who signs

the Participation Agreement, upon request. In the event there is a dispute as to whether a case should be on the list, Co-Lead Counsel shall seek to resolve the matter with the particular plaintiff's counsel informally, and if that is unsuccessful, upon motion to the Court. The parties' reporting obligations shall continue quarterly until the conclusion of the MN MDL.

X. PAYMENTS FROM THE FUNDS.

When ripe, this Court shall determine the appropriate procedures to make Common Benefit Awards to counsel and otherwise authorize payments from the Funds.

The Federal Coordination Order contemplates that the Federal MDL Leadership, the MN MDL Leadership, and other counsel will combine to produce a comingled body of common benefit work available for the use and/or benefit of parties and their counsel with cases pending in the Federal MDL, the MN MDL, and other Coordinated Actions. (MDL No. 2591, ECF Doc. 1099 at p 3); and, as a result of same, the Federal MDL Leadership will perform Common Benefit Work for the use and/or benefit of the plaintiffs in this proceeding, and the MN MDL Leadership will perform Common Benefit Work for the use and/or benefit of the plaintiffs in the Federal MDL. Therefore, when this Court takes up the issue of making Common Benefit Awards, it will coordinate with the Federal MDL Court to establish a reasonable framework for the Federal MDL Leadership and the MN MDL leadership to share Common Benefit Awards made in the Federal MDL and this proceeding.

IT IS SO ORDERED.

Dated October , 2015.

Thomas M. Sipkins
District Court Judge

EXHIBIT A

MINNESOTA PARTICIPATION IN RE: SYNGENTA LITIGATION
COURT FILE NO.: 27-CV-15-3785 (THE "MN MDL")

This MN Participation Agreement (this "Agreement") is by and between __ ("Participating Counsel") and the MN MDL Co-Leads (together with Participating Counsel, the "Parties"). The purpose of this Agreement is to control the Parties' work together in connection with their coordinated prosecution of the Claims.

RECITALS:

WHEREAS, Participating Counsel is a law firm with its principal office in __, __;

WHEREAS, Bassford Remele PA is a law firm with its principal office in Minneapolis, Minnesota;

WHEREAS, Gustafson Gluek PLLC is a law firm with its principal office in Minneapolis, Minnesota;

WHEREAS, Schwebel, Goetz & Sieben PA is a law firm with its principal office in Minneapolis, Minnesota;

WHEREAS, Watts Guerra LLP is a law firm with its principal office in San Antonio, Texas;

WHEREAS, Participating Counsel, on behalf of itself, its Clients, and its Co-Counsel, desire to use and/or benefit from MN MDL Common Benefit Work and other rights detailed in this Agreement;

WHEREAS, the MN MDL Co-Leads desire for Participating Counsel, on behalf of itself, its Clients, and its Co-Counsel, to use and/or benefit from MN MDL Common Benefit Work and other rights detailed in this Agreement, and, in exchange for same, for Participating Counsel, its Clients, and its Co-Counsel, to submit to the jurisdiction of the MN Court and abide by the MN MDL Court's orders applicable to such use and/or benefit and rights;

WHEREAS, the Parties desire to foster from the outset a spirit of coordination between Participating Counsel and the MN MDL Co-Leads and resolve all potential, future disputes in connection with Common Benefit Assessments; and

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Definitions.

a. "Claims" means claims possessed by Producers and Non-Producers against Syngenta as a result of Syngenta's premature launch of its Agrisure Viptera® and Agrisure Duracade™ corn seed.

b. "Client" means a Producer or Non-Producer represented or jointly represented, as the case may be, by Participating Counsel, alone or with Co-Counsel, as the case may be, in the prosecution of such producer's or non-producer's Syngenta Claims.

c. "Co-Counsel" means a law firm engaged in a joint representation of a Client.

d. "Common Benefit Assessment" means the common benefit fee and expense assessment ordered by the MN MDL Court in connection with the MN MDL.

e. "Common Benefit Assessment Dispute" means any dispute, large or small, at law or in equity, between two or more of the Parties in connection with the amount of money owed by Participating Counsel, its Client, or its Co-Counsel to the MN MDL Funds, whether in the form of a direct payment by such counsel, client, or co-counsel, or, in the alternative, a holdback by Syngenta on behalf of such counsel, client, and/or co-counsel, in satisfaction of a Common Benefit Assessment Order and this Agreement.

f. "Common Benefit Assessment Order" means the MN MDL Court's then-applicable order ordering a Common Benefit Assessment in the MN MDL.

g. "Common Benefit Work Product" means work performed by or for the MN MDL Co-Leads in furtherance of their duties in the MN MDL, which work is performed for the common benefit of all or substantially all of Producers and/or Non-Producers with Syngenta Claims.

h. "Federal MDL" means MDL No. 2591.

i. “Federal MDL Funds” means the common benefit fee fund and expense fund formed in connection with the Federal MDL in which Syngenta will deposit money in satisfaction of the Common Benefit Assessment Order.

j. “MN MDL” means MDL No. 3785.

k. “MN MDL Co-Leads” means co-lead counsel in the MN MDL, which today consists of Bassford Remele PA, Gustafson Gluek PLLC, Schwebel, Goetz & Sieben PA, and Watts Guerra LLP.

l. “MN MDL Court” means the Fourth Judicial District Court, County of Hennepin, State of Minnesota, Judge Thomas M. Sipkins, presiding.

m. “MN MDL Funds” means the common benefit fee fund and expense fund to be formed in connection with the MN MDL in which Syngenta will deposit money in satisfaction of the Common Benefit Assessment ordered by MN MDL Court.

n. “MN MDL Leadership” means the plaintiff leadership appointed to lead the MN MDL by the MN MDL Court.

o. “Producer” and “Non-Producer” mean Producer and Non-Producer, as defined in MDL No. 2591, ECF No. 287 (¶ 1).

p. “Syngenta” means Syngenta Seeds, Inc. and other Syngenta entities or their successors, including, without limitation, successors as a result of merger, acquisition, or asset sale.

q. “Syngenta Case” means a case filed on behalf of a Producer or Non-Producer to prosecute such producer’s or non-producer’s Syngenta Claims.

2. Rights and Obligations.

a. Common Benefit Assessments.

i. For Participating Counsel, each of its Clients³, and each of its Co-Counsel, if any, the Parties agree that if and as such clients are entitled to any

³ Regardless of whether or where such clients’ Syngenta Claims are filed.

payment from Syngenta in connection with settlement of or judgment on such clients' Syngenta Claims, such clients will be subject to a Common Benefit Assessment payable to the MN MDL Funds in the amount of 11% (8% in fees and 3% in expenses) for Producers and 9% (7% in fees and 2% in expenses) for Non-Producers; and, consistent with same, Participating Counsel will instruct Syngenta to hold back and pay to the MN MDL Funds the appropriate amount of such assessment, as detailed below.⁴

ii. Further, the collective exposure of Participating Counsel, its Client, and its Co-Counsel, if any, for payment of a Common Benefit Assessment to the MN MDL Funds in connection with such client will be capped at 11% (8% in fees and 3% in expenses) for Producers and 9% (7% in fees and 2% in expenses) for Non-Producers.

iii. Further, to the extent Participating Counsel, its Client, or its Co-Counsel, if any, are subject to a common benefit assessment in MDL No. 2591, such assessment shall be set off—dollar for dollar—against such counsel's, client's, and co-counsel's obligation to pay a Common Benefit Assessment.

b. Client List and Clients' FSA 578 Forms.

i. Participating Counsel will provide to the MN MDL Co-Leads (1) a list in Excel format of such counsel's Clients, including their names and the style of their cases, for those Clients who have filed cases, (its "Client List") and (2) copies in PDF format of their FSA 578 forms for calendar years 2011-15 and each future calendar year after 2015 through the year of the first MN MDL bellwether trial, as they become available (its "Clients' FSA 578 Forms"). To the extent that Participating Counsel has filed a case seeking class treatment, only such counsel's Clients serving as individual named class representatives in such case, and not the proposed putative class members, should be included on such counsel's Client List.

ii. Participating Counsel will provide to the MN MDL Co-Leads its first Client List on March 31, 2016; and, such counsel will provide its first Clients' FSA 578 Forms on June 30, 2016.

⁴ In the event any defendant fails to hold back the assessments required by this Section, plaintiff's counsel has an equal duty to pay the appropriate holdback amounts to the Common Benefit Funds. Under all scenarios (except to the extent the attorney is being paid an hourly rate), the fee assessment shall be paid from the attorney's portion of the recovery and shall not be borne by the client.

iii. Participating Counsel will supplement its Client List and Clients' FSA 578 Forms every 180 days throughout the pendency of the MN MDL. Participating Counsel will timely supplement previously produced Clients' FSA 578 Forms with FSA 578 Forms for future calendar years through the year of the first federal court trial as they become available.

iv. The MN MDL Co-Leads acknowledge that each Client List and each Client's FSA 578 Forms are proprietary and confidential, and the MN MDL Co-Leads will, at all times, in all ways, and for all purposes, treat the content of same as proprietary and confidential; and, absent Participating Counsel's consent, the MN MDL Co-Leads will not (1) disclose any portion of same to any person or entity other than (a) under seal to the MN MDL Court and/or (b) pursuant to a protective order in a form to which Participating Counsel consent or (2) knowingly attempt at any time, in any way, or for any purpose to communicate with a Client included on any Client List submitted to the MN MDL Co-Leads, unless Coordinating Counsel consents to such communication. The Parties agree that publication notice of a proposed litigation or settlement class certification will not be deemed a knowing communication with a Client.

v. By including a client on its Client List, Participating Counsel represents and warrants that (1) it believes that it is in such client's best interest to be excluded from any and all proposed class actions in the Federal MDL or the MN MDL and (2) would recommend to such client that he/she/it opt out of the proposed class, if such client was included in the applicable class definition.

c. Common Benefit Work Product. Upon a written request and with reasonable notice from Participating Counsel, the MN MDL Co-Leads will provide Participating Counsel reasonable and continuing access to the MN MDL Co-Leads' Common Benefit Work Product, subject to the applicable MN MDL Court's and Federal MDL Court's orders. Participating Counsel will not disclose such work product to other counsel, unless such other counsel has signed a Joint Representation Agreement with the MN MDL Co-Leads; provided, Participating Counsel may use such work product when taking oral depositions or during hearings or trials, but may not provide or authorize others to provide any deposition or trial transcript to any other counsel, unless such other counsel has signed a Joint Prosecution Agreement with the MN MDL Co-Leads.

d. Class Certification.

i. None of the MN MDL Co-Leads will propose to certify any litigation or settlement class that includes any Minnesota Client whose Syngenta Case was filed in Minnesota state court and is pending as of the date of any order granting class certification and whose name is included on the Client List as of the date of such order granting class certification (the “Excluded Clients”); if the MN MDL Co-Leads seek to certify any litigation or settlement class, they will not include in their proposed class definition(s) any Excluded Clients, unless Participating Counsel consents to same.

ii. Participating Counsel will not oppose class certification in the MN MDL if the MN MDL Co-Leads exclude from their proposed class definition(s) all Excluded Clients.

iii. The MN MDL Co-Leads will not seek to interfere with or alter the terms and conditions of any fee agreement with any Client (e.g., reduce or cap the fee of Participating Counsel or its Co-Counsel, if any).

3. Miscellaneous.

a. Any dispute between one or more of the MN MDL Co-Leads, on the one hand, and one or more of Participating Counsel, its Clients, and/or its Co-Counsel, if any, on the other, arising out of the construction or enforcement of this Agreement will be resolved by the MN MDL Court (to the exclusion of all other state and federal forums); and, each of Participating Counsel, its Clients, and its Co-Counsel, if any, submits to the personal jurisdiction of this Court for all purposes in connection with the construction or enforcement of this Agreement.

b. All notice or consent required by this Agreement must be in writing, signed by the Party giving such notice or consent, and served upon the other Parties.

c. The Parties may by mutual agreement amend or supplement this Agreement at any time and from time to time; provided, they must do so in writing, and such writing must be signed by the Parties and filed in the MN MDL. Defendants shall be afforded the opportunity to object to any subsequent amendment or supplement to this Agreement to the extent Defendants’ rights and/or obligations are affected.

d. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws, the legality, validity, and enforceability of

the remaining provisions of this Agreement will not be affected.

e. If any Party alleges that any other Party is in breach of this Agreement, then the former will give prompt notice of same to the latter, and the latter will have 90 days to cure before the former may take any action against the latter in connection with the alleged breach; and, if the latter timely cures, the former may not take any action against the latter in connection with the believed breach.

f. Each member of the MN MDL Executive Committee is a third-party beneficiary of this Agreement and may enforce this Agreement.

g. Each Client and Co-Counsel, if any, is third-party beneficiary of this Agreement and may enforce this Agreement.

h. The Parties agree that this Agreement will be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting same.

i. This Agreement embodies the entire agreement between the Parties in connection with the subject matter of this Agreement, and it supersedes and cancels all prior conflicting or inconsistent oral or written communications between the Parties in connection with such subject matter.

j. The Agreement will be effective when signed by the Parties. This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which will constitute one and the same document. The electronic exchange of executed copies of the signature pages of this Agreement will constitute effective execution of this Agreement. Signatures of the Parties transmitted by electronic mail in .pdf form will be deemed to be their original signatures for all purposes.

k. The MN MDL Co-Leads whose signatures appear below agree that the rights, obligations, terms, and conditions of this Agreement shall apply both to them individually and to their present law firms regardless of any future disassociation from their present law firms and/or future association with a different law firm. The MN MDL Co-Leads whose signatures appear below represent and warrant to Participating Counsel, the Clients, and the Co-Counsel, if any, that such co-leads have the authority to execute, and do in fact execute, this Agreement ON BEHALF OF THEMSELVES, THEIR LAW FIRMS, AND THE MN LEADERSHIP.

1. Participating Counsel and Co-Counsel, if any, agree that the rights, obligations, terms, and conditions of this Agreement shall apply both to them individually and to their present law firms and regardless of any future disassociation from their present law firms and/or future association with a different law firm. Participating Counsel whose signature appears below represents and warrants to the MN MDL Co-Leads that he/she have the authority to, and does in fact, execute this Agreement as Participating Counsel ON BEHALF OF HIMSELF/HERSELF, HIS/HER LAW FIRM, THE CLIENTS, AND THE CO-COUNSEL, IF ANY.

[Signatures appear on the following pages.]

SIGNED on this the __ day of __, 20__.

[Participating Counsel's LAW FIRM]

By: [name]

Title: [title]

BASSFORD REMELE PA

By: Lewis A. Remele Jr.
Title: Partner

GUSTAFSON GLUEK PLLC

By: Daniel E. Gustafson
Title: Partner

SCHWEBEL, GOETZ & SIEBEN PA

By: William R. Sieben
Title: Partner

WATTS GUERRA LLP

By: Francisco Guerra IV
Title: Partner