

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

BADER FARMS, INC. and)	
BILL BADER,)	
)	
Plaintiffs,)	
)	MDL No. 1:18-md-02820-SNLJ
v.)	
)	Indiv. Case No. 1:16-cv-00299-SNLJ
MONSANTO COMPANY and)	
BASF CORPORATION,)	
)	
Defendants.)	

**JOINT STIPULATION OF UNCONTESTED FACTS AND
LIST OF PRESUMPTIVELY ADMISSIBLE TRIAL EXHIBITS**

Plaintiffs Bader Farms, Inc. and Bill Bader (collectively, “Plaintiffs”) and Defendants Monsanto Company and BASF Corporation (collectively, “Defendants”), pursuant to the Court’s Order dated Nov. 4, 2019 (Dkt. No. 271), hereby submit the following Joint Stipulation of Uncontested Facts. Also included in this filing is a list of presumptively admissible trial exhibits that the parties have developed. The parties were not able to agree upon a summary of the case to be used by the Court in voir dire; therefore, Plaintiffs and Defendants are separately submitting their respective, proposed versions of the case summary.

Joint Stipulation of Uncontested Facts

1. Plaintiff Bader Farms, Inc. (“Bader Farms”) is a corporation incorporated under Missouri law with its principal place of business in Campbell, Missouri. Campbell,

Missouri is located in Dunklin County, Missouri. Bader Farms' primary business is growing peaches in Dunklin County, Missouri.

2. Plaintiff Bill Bader is a resident of Campbell, Missouri. Bill Bader is the President and sole director of Bader Farms. Bill Bader and his wife, Denise Bader, are the owners of Bader Farms. Bill Bader manages the production of peaches and other crops grown for resale by Bader Farms.

3. Defendant Monsanto Company ("Monsanto") is a corporation incorporated under Delaware law and headquartered in St. Louis, Missouri. Monsanto is an agriculture company that develops, markets, and sells seeds and herbicides to farmers, retailers, and wholesale distributors.

4. Defendant BASF Corporation ("BASF") is a corporation incorporated under Delaware law and headquartered in Florham Park, New Jersey. BASF Corporation's Agricultural Products Group is based in Raleigh, North Carolina. BASF is an agri-chemical company that develops, markets, and sells herbicides and other agricultural products to retailers, and wholesale distributors.

5. Dicamba is a herbicide that is used to control certain types of weeds.

6. Monsanto developed cotton seed referred to as Bollgard II® XtendFlex® and Bollgard III® XtendFlex® cotton seed ("Xtend cotton").

7. Monsanto developed soybean seed referred to as Roundup® Ready 2 Xtend® soybean seed ("Xtend soybean") (collectively, Xtend cotton and Xtend soybean seed are referred to as "Xtend seed").

8. Xtend cotton was made available for commercial sale in time for planting during the 2015 growing season. Xtend soybean was made available for commercial sale in time for planting during the 2016 growing season.

9. Monsanto developed a dicamba based herbicide referred to as XtendiMax® with VaporGrip® (“XtendiMax”).

10. The EPA conditionally registered XtendiMax on November 9, 2016 for a period of two years. Monsanto made XtendiMax available for commercial sale in time for use during the 2017 growing season.

11. On November 1, 2018, the EPA renewed XtendiMax’s conditional registration for a second two year period. XtendiMax continues to be available for commercial sale.

12. BASF developed a dicamba based herbicide referred to as Engenia®.

13. The EPA conditionally registered Engenia on December 20, 2016 for a period of two years. BASF made Engenia available for commercial sale in time for use during the 2017 planting season. On November 2, 2018, the EPA renewed Engenia’s conditional registration for a second two-year period. Engenia continues to be available for commercial sale.

Brief Summary of the Case to be used in Voir Dire

The parties were unable to stipulate to a summary of the case to be used in voir dire and will therefore separately file their respective proposed summaries.

Statement of the Parties regarding Presumptively Admissible Trial Exhibits

Pursuant to the Court's Scheduling Order, the parties worked together in an attempt to resolve disputes regarding exhibits and to prepare a list of presumptively admitted exhibits. The parties will continue in these efforts. The initial list of presumptively admitted exhibits that the parties have thus far agreed to is attached hereto as Exhibit A.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 20th day of January, 2020, the foregoing was filed electronically via the CM/ECF system with the Clerk of the Court which will serve Notice of Electronic Filing upon all counsel of record via electronic mail.

/s/ Christopher M. Hohn

Exhibit A

Exhibit A

Pre-Admitted Exhibits

1. Pltfs-206
2. Pltfs-304
3. Pltfs-549
4. Pltfs-218
5. Pltfs-598
6. B-660
7. B-661
8. B-681