

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**IN RE: PARAQUAT PRODUCTS
LIABILITY LITIGATION**

)
)
) Case No. 3:21-md-3004-NJR
)
) MDL No. 3004
)
) Hon. Judge Nancy J. Rosenstengel
)
)

**This Document Applies To:
All Current Actions. See CMO No. 8.**

SYNGENTA’S CONSOLIDATED PARTIAL MOTION TO DISMISS

The Syngenta Defendants (“Syngenta”) file this motion pursuant to Federal Rule of Civil Procedure 12(b)(6) and Case Management Order No. 8, ECF No. 347.¹ This motion applies to all Current Actions as defined by Case Management Order No. 8, which are also listed below. *See supra* Part II. The motion specifically moves to dismiss claims in the Current Actions for breach of warranty, fraud, and violation of certain consumer protection statutes, which are specifically set forth in the appendix accompanying this motion. Defendants will also submit a proposed order identifying all of the counts that are subject to dismissal under this motion and the motion to dismiss filed by Chevron U.S.A., which Syngenta joins.

I. Motion to Dismiss

As set forth in greater detail in the accompanying memorandum and appendix in support of this motion, Syngenta moves as follows:

1. The Court should dismiss with prejudice claims brought under the state laws of Connecticut, Indiana, Kansas, Louisiana, Mississippi, North Carolina, and Washington, because those state have enacted comprehensive products-liability

¹ Not every Syngenta entity named in each of the Current Actions has been properly served with process. Although the Syngenta Defendants file this motion collectively, any Syngenta entity for which a plaintiff has failed to effectuate adequate service of process reserves the right to challenge service in accordance with CMO No. 8. *See* ECF No. 347 ¶ 3.

laws that provide the exclusive remedy for product-based personal injuries and that subsume claims brought under other theories of liability.

2. The Court should dismiss certain plaintiffs' claims for breach of warranty based on the following reasons:
 - a. In states that limit warranty remedies to a product's purchaser and the purchaser's family, household-members, and guests, the Court should dismiss the claims of plaintiffs that do not fall within one of those categories. In states that further limit warranty rights to actual purchasers by requiring that warranty plaintiffs demonstrate vertical privity, the Court should dismiss the claims of plaintiffs that do not allege to have actually purchased the products they allege caused them harm.
 - b. The Court should dismiss warranty claims of plaintiffs who fail to plead pre-suit notice in accordance with the warranty laws they invoke.
3. The Court should dismiss certain plaintiffs' claims for violations of state consumer protections laws based on the following reasons
 - a. The Court should dismiss with prejudice claims brought under consumer protection laws in California, Maine, Missouri, and Pennsylvania, because those laws provide remedies only for consumers who purchased goods primarily for personal, family, or household use, which do not include paraquat products.
 - b. The Court should dismiss with prejudice claims brought under consumer protection laws in Illinois, Iowa, Maine, Minnesota, and Washington, because those laws do not provide remedies for physical harm.
 - c. The Court should dismiss claims brought under the consumer protection laws in Minnesota and Idaho for state-specific reasons set forth in the accompanying memorandum in support of this motion.

II. Current Actions

This motion applies to all Current Actions as defined by Case Management Order No. 8, which are complaints in those pending actions in which a defendant was served with the complaint on or before August 11, 2021. *See* CMO 8, ECF No. 1131. Those actions are:

- Hemker v. Syngenta Crop Protection, LLC, No. 3:21-pq-547
- Piper v. Syngenta Crop Protection, LLC, No. 3:21-pq-548
- Runyon v. Syngenta Crop Protection, LLC, No. 3:21-pq-549
- Kearns v. Syngenta Crop Protection LLC, No. 3:21-pq-550
- Durbin v. Syngenta Crop Protection LLC, No. 3:21-pq-551

- Barrat v. Syngenta Crop Protection LLC, No. 3:21-pq-552
- Holyfield v. Chevron U.S.A. Inc., No. 3:21-pq-553
- Rakoczy v. Syngenta Crop Protection, LLC, No. 3:21-pq-554
- Albanese v. Syngenta AG, No. 3:21-pq-555
- O'Connor v. Syngenta AG, No. 3:21-pq-556
- Turner v. Syngenta Crop Protection LLC, No. 3:21-pq-558
- Denes v. Syngenta AG, No. 3:21-pq-563
- Majors v. Syngenta AG, No. 3:21-pq-566
- Richter v. Syngenta Crop Protection, LLC, No. 3:21-pq-571
- Gieseke v. Syngenta Crop Protection, LLC, No. 3:21-pq-576
- Tenneson v. Syngenta Crop Protection LLC, No. 3:21-pq-589
- Crawford v. Syngenta Crop Protection, LLC, No. 3:21-pq-590
- Miller v. Syngenta Crop Protection, LLC, No. 3:21-pq-00591
- Hill v. Syngenta Crop Protection, LLC, No. 3:21-pq-594
- Walkington v. Syngenta AG, No. 3:21-pq-601
- Holmes v. Syngenta AG, No. 3:21-pq-602
- Gray v. Syngenta Crop Protection LLC, No. 3:21-pq-603
- Moen v. Syngenta Crop Protection LLC, No. 3:21-pq-605
- Rutherford v. Syngenta Crop Protection LLC, No. 3:21-pq-606
- Nunnery v. Syngenta AG, No. 3:21-pq-607
- Van Pelt v. Syngenta AG, No. 3:21-pq-608
- Ruscoe v. Syngenta AG, No. 3:21-pq-609
- Strickland v. Syngenta Crop Protection LLC, No. 3:21-pq-611
- Hays v. Syngenta Crop Protection, LLC, No. 3:21-pq-612
- Otten v. Syngenta Crop Protection LLC, No. 3:21-pq-613
- Adams v. Syngenta Crop Protection LLC, No. 3:21-pq-614
- McCarty v. Syngenta Crop Protection LLC, No. 3:21-pq-616
- Hensgens v. Syngenta AG, No. 3:21-pq-617
- Barr v. Syngenta AG, No. 3:21-pq-618
- Copas v. Syngenta Crop Protection LLC, No. 3:21-pq-619
- Haresnape v. Syngenta AG, No. 3:21-pq-621
- Dietrich v. Syngenta Crop Protection, LLC, No. 3:21-pq-622
- Vacchino v. Syngenta AG, No. 3:21-pq-623
- Larsen v. Syngenta Crop Protection, LLC, No. 3:21-pq-624
- Werking v. Syngenta AG, No. 3:21-pq-625
- Glassburn v. Syngenta Crop Protection, LLC, No. 3:21-pq-626
- Smith v. Syngenta Crop Protection, LLC, No. 3:21-pq-627
- Ward v. Syngenta AG, No. 3:21-pq-628
- Ayres v. Syngenta Crop Protection, LLC, No. 3:21-pq-629
- Galasso v. Syngenta AG, No. 3:21-pq-630
- Parson v. Syngenta Crop Protection, LLC, No. 3:21-pq-631
- Brown Jefferson v. Syngenta AG, No. 3:21-pq-632
- Dove v. Syngenta AG, No. 3:21-pq-633
- Landis v. Syngenta Crop Protection, LLC, No. 3:21-pq-634

- Hawkins v. Syngenta Crop Protection LLC, No. 3:21-pq-635
- Henderson v. Syngenta Crop Protection LLC, No. 3:21-pq-636
- Elmore v. Syngenta Crop Protection, LLC, No. 3:21-pq-638
- Supenia v. Syngenta Crop Protection, LLC, No. 3:21-pq-639
- Gamwell v. Syngenta Crop Protection, LLC, No. 3:21-pq-640
- Trower v. Syngenta Crop Protection, LLC, No. 3:21-pq-641
- McDonald v. Syngenta Crop Protection, LLC, No. 3:21-pq-642
- Kirk v. Syngenta Crop Protection, LLC, No. 3:21-pq-643
- Richmond v. Syngenta Crop Protection, LLC, No. 3:21-pq-644
- McDonald v. Syngenta Crop Protection, LLC, No. 3:21-pq-645
- Cates v. Syngenta Crop Protection, LLC, No. 3:21-pq-646
- Morrow v. Syngenta Crop Protection LLC, No. 3:21-pq-647
- Pilgreen v. Syngenta Crop Protection, LLC, No. 3:21-pq-648
- Self v. Syngenta Crop Protection, LLC, No. 3:21-pq-649
- West v. Syngenta Crop Protection, LLC, No. 3:21-pq-650
- Nichols v. Syngenta Crop Protection LLC, No. 3:21-pq-652
- Gaddis v. Syngenta Crop Protection, LLC, No. 3:21-pq-653
- Smith v. Syngenta Crop Protection, LLC, No. 3:21-pq-654
- Wilson v. Syngenta Crop Protection, LLC, No. 3:21-pq-655
- Crane v. Syngenta Crop Protection LLC, No. 3:21-pq-656
- Friday v. Syngenta Crop Protection LLC, No. 3:21-pq-657
- Rysavy v. Syngenta Crop Protection, LLC, No. 3:21-pq-659
- Adams v. Syngenta AG, No. 3:21-pq-660
- Normand v. Syngenta AG, No. 3:21-pq-661
- Nelson v. Syngenta AG, No. 3:21-pq-662
- Ingram v. Syngenta AG, No. 3:21-pq-663
- Passino v. Syngenta AG, No. 3:21-pq-665
- Edwards v. Syngenta Crop Protection, LLC, No. 3:21-pq-666
- Mettetal v. Syngenta AG, No. 3:21-pq-668
- Jones v. Syngenta AG, No. 3:21-pq-669
- Milling v. Syngenta Crop Protection, LLC, No. 3:21-pq-671
- Amatucci v. Syngenta AG, No. 3:21-pq-672
- Wurster v. Syngenta Crop Protection LLC, No. 3:21-pq-677
- Sweeten v. Syngenta Crop Protection, LLC, No. 3:21-pq-687
- Danforth v. Syngenta Crop Protection LLC, No. 3:21-pq-690
- Frank v. Syngenta Crop Protection LLC, No. 3:21-pq-691
- Zaugg v. Syngenta Crop Protection LLC, No. 3:21-pq-694
- Byrnes v. Syngenta Crop Protection LLC, No. 3:21-pq-695
- Lovelady v. Syngenta AG, No. 3:21-pq-704
- Andersen v. Syngenta AG, No. 3:21-pq-713
- Eiland v. Syngenta AG, No. 3:21-pq-714
- Willyard v. Syngenta AG, No. 3:21-pq-715
- Bakken v. Syngenta Crop Protection LLC, No. 3:21-pq-722
- Thompson v. Syngenta Crop Protection LLC, No. 3:21-pq-731

- Heath v. Syngenta Crop Protection, LLC, No. 3:21-pq-734
- Bequette v. Syngenta Crop Protection LLC, No. 3:21-pq-752
- Walker v. Syngenta Crop Protection LLC, No. 3:21-pq-763
- Rowan v. Syngenta AG, No. 3:21-pq-778
- Willey v. Syngenta AG, No. 3:21-pq-784
- Taylor v. Syngenta Crop Protection LLC, No. 3:21-pq-786
- Thibodeaux v. Syngenta Crop Protection LLC, No. 3:21-pq-788
- Morrow v. Syngenta Crop Protection LLC, No. 3:21-pq-785
- Causey v. Syngenta Crop Protection LLC, No. 3:21-pq-790
- Burnette v. Syngenta Crop Protection, LLC, No. 3:21-pq-822
- Adams v. Syngenta Crop Protection LLC, No. 3:21-pq-828
- Tippey v. Syngenta Crop Protection LLC, No. 3:21-pq-829
- Barber v. Syngenta Crop Protection LLC, No. 3:21-pq-830
- Altman v. Syngenta Crop Protection, LLC, No. 3:21-pq-832
- Douglas v. Syngenta Crop Protection, LLC., No. 3:21-pq-833
- Halloran v. Syngenta AG, No. 3:21-pq-834
- Stanton v. Syngenta Crop Protection, LLC, No. 3:21-pq-835
- Fuller v. Syngenta Crop Protection, LLC, No. 3:21-pq-836
- Branscum v. Syngenta Crop Protection, LLC, No. 3:21-pq-838
- Branscum v. Syngenta Crop Protection, LLC, No. 3:21-pq-839
- Shea v. Syngenta Crop Protection LLC, No. 3:21-pq-840
- Bankston v. Syngenta Crop Protection, Inc., No. 3:21-pq-843
- Fillinghim v. Syngenta AG, No. 3:21-pq-846
- Bergmann v. Syngenta AG, No. 3:21-pq-847
- Parker v. Chevron U.S.A., Inc., No. 3:21-pq-880
- Odom v. Syngenta Crop Protection LLC, No. 3:21-pq-849

Dated: September 13, 2021

Respectfully submitted,

/s/ Ragan Naresh

Michael J. Nester, #02037211
DONOVAN ROSE NESTER P.C.
15 North 1st Street, Suite A
Belleville, IL 62220
(618) 212-6500 (Tel.)
(618) 212-6501 (Fax)
mnester@drnpc.com

Leslie M. Smith, P.C., #6196244
Bradley H. Weidenhammer, P.C., #6284229
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654
(312) 862-2000

Ragan Naresh, P. C.
KIRKLAND & ELLIS LLP
1301 Pennsylvania Ave., NW
Washington, DC 20004
(202) 389-5000

Counsel for Syngenta Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 13, 2021, the foregoing was electronically filed using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Ragan Naresh

Ragan Naresh