

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

*IN RE SYNGENTA AG MIR 162 CORN  
LITIGATION*

THIS DOCUMENT RELATES TO:

*All Cases*

MDL No. 2591

Case No. 2:14-md-2591-JWL-JPO

**AMENDED ORDER RELATING TO ACTIONS FILED IN D. KAN.**

On December 11, 2014, the Judicial Panel on Multidistrict Litigation created MDL 2591, *In re: Syngenta AG MIR162 Corn Litigation*. See MDL No. 2591, Dkt. 193 (J.P.M.L.) (“Transfer Order”). The MDL was assigned to this Court, and a number of actions filed in other Districts were transferred here for “coordinated or consolidated pretrial proceedings.” *Id.* In addition to these cases, nine cases were filed directly in this District and assigned to this Court involving defendants and allegations similar to the cases in the MDL. These cases “do not require Panel action” because they were filed originally in this District. See JPML Rule 7.2(a). These nine cases have since been deemed included in the MDL by stipulation. This Order addresses procedures for handling any future filings in the District of Kansas concerning the same subject matter as these cases.

The Court adopts the following procedures for related cases directly filed in the District of Kansas. If any party to this MDL is named in a civil action pending in this District which concerns the same subject matter as the cases in this MDL, *e.g.* JPML Rule 1.1(h), it shall file a Notice of Related case in the individual docket and the MDL docket. Upon filing of such notice, the Clerk shall issue an order on the individual case docket and the MDL docket directing any

party to show cause (“Show Cause Order”) why the case should not be included in the MDL. Any Response to the Show Cause Order (which need only be filed by any objecting parties) shall be filed within seven days and shall be limited to five pages. Replies shall be filed within five days thereafter and limited to five pages. If no response is filed or a response indicating no objection is filed, the case shall be deemed included in the MDL for coordinated or consolidated pretrial proceedings in accordance with the Court’s December 22, 2014 Preliminary Practice and Procedure Order Upon Transfer Pursuant to 28 U.S.C. § 1407(a). Failure by any party in the MDL to object as set forth herein shall constitute a waiver of any objection to inclusion of the case in the MDL for pretrial proceedings. If an objection is filed, the Court will decide if the case should or should not be included in the MDL in accordance with the Transfer Order and rules governing centralization found in 28 U.S.C. § 1407(a). The procedure outlined here and adopted by the Court is intended to pattern the conditional tag-along procedures used by the JPML for the transfer of related cases filed after an MDL has been created, and shall not be deemed to have any other effect. *See* JPML Rule 7.1 (notification requirement) & 8.1 (show cause process).

On May 17, 2016, upon motion by Defendants, the Court dismissed the claims of non-Kansas plaintiffs who had filed cases in the District of Kansas<sup>1</sup> for lack of personal jurisdiction and improper venue. *See* ECF No. 2047. Rather than transferring these cases now only to have them transferred back to this MDL for pre-trial purposes, the parties have agreed that these cases, which include individuals selected as bellwether discovery plaintiffs, should remain in this MDL for pretrial purposes. Upon completion of all pretrial proceedings applicable to these cases, the Court will transfer these cases to a federal district court in which each Non-Kansas Plaintiff

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<sup>1</sup> The cases that are subject to the May 17 Order were *McDonald AG Inc. v. Syngenta AG, et al.*, No. 2:15-cv-9592-JWL-JPO, *Koeller, et al. v. Syngenta AG, et al.*, No. 2:15-cv-9593 JWL-JPO, and *Wright, et al. v. Syngenta AG, et al.*, No. 2:15-cv-9597-JWL-JPO.

farms. *See* ECF 1620 (“Syngenta does not oppose the non-Kansas Plaintiffs’ alternative request that, pursuant to 28 U.S.C. § 1631, the Court transfer each of their cases to the district in which each Non-Kansas Plaintiff farms.”)

On May 19, 2016, the Court issued an Order to Show Cause why another case directly filed in Kansas, *Barker, et al. v. Syngenta, et al.*, No. 2:16-cv-2317-JWL-JPO, should not be included in the MDL. Syngenta responded, explaining that while Syngenta did not object to the inclusion of *Barker* for purposes of pretrial proceedings, the plaintiffs in *Barker* do not reside in Kansas and the case should therefore be transferred to other federal district courts at the conclusion of pretrial proceedings, under the reasoning set forth in the May 17 Order. *See* ECF No. 2071. After discussion with counsel for the parties at the May 25, 2016 status conference, the Court included *Barker* in the MDL for pretrial proceedings. *See* ECF No. 2080. The Court will transfer *Barker*, as well as any other cases filed after the date of this order by non-Kansas plaintiffs directly in Kansas that are included in this MDL, to a corresponding federal district court of proper venue as defined by 28 U.S.C. § 1391 at the conclusion of pretrial proceedings.

**IT IS SO ORDERED.**

Dated this 2nd day of June, 2016 at Kansas City, Kansas.

s/ John W. Lungstrum  
JOHN W. LUNGSTRUM  
UNITED STATES DISTRICT JUDGE