

Thousands of Farmers to Join Lawsuit Against Monsanto/Bayer and BASF Over Weedkiller Dicamba

Dicamba litigation against Bayer, BASF poised to explode, lawyers say

by Carey Gillam, [U.S. Right to Know](#) | February 27, 2020



Thousands of farmers from multiple states are expected to join mass tort litigation pending in federal court over claims that weed-killing products developed by the former Monsanto Co. and other chemical companies are destroying and contaminating crops, including organic production, a group of lawyers and farmers said on Wednesday.

The number of farmers seeking legal representation to file suit against Monsanto and BASF has surged over the last week and a half after a staggering \$265 million jury award to a [Missouri peach farmer](#) who alleged the two companies were to blame for the loss of his livelihood, according to Joseph Peiffer of the Peiffer Wolf Carr & Kane law firm. Peiffer said more than 2,000 farmers are likely to become plaintiffs.

There are already over 100 farmers making claims against the companies that have been combined in multidistrict litigation in U.S. District Court in Cape Girardeau, Missouri.

Earlier this month the [bellwether trial](#) for that litigation ended with a unanimous jury awarding the family-owned Bader Farms \$15 million in compensatory damages and \$250 million in punitive damages, to be paid by Bayer AG, the German company that bought Monsanto in 2018, and by BASF. The jury concluded that Monsanto and BASF conspired in actions they knew would lead to widespread crop damage because they expected it would increase their own profits.

“We now have the road map to get justice for dicamba victims. The Bader verdict in Missouri sent a clear signal that you can’t profit off of hurting innocent farmers and get away with it,” said Peiffer. “The crop damage research and increasing farmer complaints forecast a much bigger problem than Monsanto/Bayer and BASF want to admit.”

U.S. Right to Know asked the Environmental Protection Agency (EPA), which approved the dicamba herbicides despite scientific evidence of the risks, to provide a national tally for the total number of dicamba drift complaints. But while the EPA said it was taking the reports “very seriously,” it declined to provide a tally and said it was up to state agencies to handle such complaints.

The EPA also indicated it was not certain the damage reported by farmers was, in fact, due to dicamba.

“The underlying causes of the various damage incidents are not yet clear, as on-going investigations have yet to be concluded,” said an EPA spokesperson. “But EPA is reviewing all available information carefully.

“Ticking Time Bomb”

Just as Monsanto and Bayer have been confronted with damning internal documents in losing three trials over claims Monsanto’s glyphosate-based herbicides cause cancer, there are many internal corporate documents discovered in the dicamba litigation that helped convince the jury of the company’s guilt, according to Bader Farms attorney Bill Randles.

Randles has obtained hundreds of internal Monsanto and BASF corporate records demonstrating the companies were aware of the harm their products would create even as they publicly professed the opposite. He said one BASF document referred to dicamba damage complaints as a “ticking time bomb” that “has finally exploded.”

Bader and the other farmers allege that Monsanto was negligent in rolling out genetically engineered cotton and soybeans that could survive being sprayed with dicamba herbicides because it was known that using the crops and chemicals as designed would lead to damage.

Dicamba has been used by farmers since the 1960s but with limits that took into account the chemical’s propensity to drift far from where it was sprayed. When Monsanto’s popular glyphosate weed killing products such as Roundup started losing effectiveness due to widespread weed resistance, Monsanto decided to launch a dicamba cropping system similar to its popular Roundup Ready system, which paired glyphosate-tolerant seeds with glyphosate herbicides.

Farmers buying the new genetically engineered dicamba-tolerant seeds could more easily treat stubborn weeds by spraying entire fields with dicamba, even during warm growing months, without harming their crops, according to Monsanto, which announced a dicamba collaboration with BASF in 2011. The companies said their new dicamba herbicides would be less volatile and less prone to drift than old formulations of dicamba. But they refused to allow for independent scientific testing.

The EPA approved the use of Monsanto’s dicamba herbicide “XtendiMax” in 2016. BASF developed its own dicamba herbicide that it calls Engenia. Both XtendiMax and Engenia were first sold in the United States in 2017.

DuPont also introduced a dicamba herbicide and could also face multiple farmer lawsuits, according to the plaintiffs’ lawyers.

In their legal claims, farmers allege that they have experienced damage both from the drift of old versions of dicamba and drifting newer versions as well. The farmers claim that the companies hoped fears of drift damage would force farmers to buy the special GMO dicamba-tolerant seeds in order to protect their cotton and soybean fields.

Farmers growing other types of crops have been without any means to protect their fields.



North Carolina farmer Marty Harper, who grows about 4,000 acres of tobacco as well as peanuts, cotton, corn, soybeans, wheat, and sweet potatoes, said dicamba-related damage to his tobacco fields exceeds \$200,000. He said part of his peanut crop has also been damaged.

More than 2,700 farms have **suffered dicamba damage**, according to University of Missouri crop science professor Kevin Bradley.

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See also:

Journal of Pesticide Reform: [Dicamba Factsheet](#)

[Dicamba Might Be Even More Dangerous Than Glyphosate](#)