

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

IN RE: SYNGENTA AG MIR 162)	
CORN LITIGATION)	
)	
THIS DOCUMENT RELATES TO:)	
)	MDL No. 2591
<i>McDonald AG Inc. v. Syngenta AG, et al.</i> ,)	
No. 2:15-cv-9592-JWL-JPO)	Case No. 14-md-2591-JWL
)	
<i>Koeller, et al. v. Syngenta AG, et al.</i> ,)	Judge John W. Lungstrum
No. 2:15-cv-9593-JWL-JPO)	
)	
<i>Wright, et al. v. Syngenta AG, et al.</i> ,)	
No. 2:15-cv-9597-JWL-JPO)	

MOTION OF THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA FOR LEAVE TO FILE AN AMICUS CURIAE BRIEF IN SUPPORT OF SYNGENTA’S MOTION FOR RECONSIDERATION

The Chamber of Commerce of the United States of America (the “Chamber”), by and through its undersigned counsel, hereby moves for leave to file an *amicus curiae* brief in support of the motion of Defendants Syngenta AG, Syngenta Crop Protection AG, Syngenta Corporation, Syngenta Crop Protection, LLC, Syngenta Seeds, Inc. (now known as Syngenta Seeds, LLC), and Syngenta Biotechnology, Inc.’s (collectively “Syngenta”) for reconsideration (Doc. 1763 and Doc. 1764) of this Court’s March 11, 2016, Memorandum and Order denying Syngenta’s motion to dismiss the claims of non-Kansas plaintiffs for lack of personal jurisdiction.

INTEREST OF THE PROPOSED AMICUS CURIAE

The Chamber is the world’s largest business federation, representing 300,000 direct members and indirectly representing an underlying membership of more than three million U.S. businesses and professional organizations of every size and in every economic sector and geographic region of the country. One of the Chamber’s most important responsibilities is to represent the interests of its members in matters before the courts, Congress, and the Executive

Branch. To that end, the Chamber regularly files *amicus curiae* briefs in cases that raise issues of vital concern to the nation's business community, including cases addressing the constitutional limits on courts' exercise of personal jurisdiction.

Most Chamber members conduct business in states other than their states of incorporation and principal place of business. They therefore have a substantial interest in the rules governing whether, and to what extent, a nonresident corporation may be subjected to general personal jurisdiction in those other states.

Subjecting corporations to general jurisdiction in every state in which they are required to register to do business would eviscerate the due process limits on personal jurisdiction recognized by the Supreme Court in *Daimler AG v. Bauman*, 134 S. Ct. 746 (2014)—and could well have the practical result of exposing corporations that do business nationwide to general jurisdiction in all fifty states. The Chamber seeks to appear as *amicus curiae* to explain why that result would be irreconcilable with the Supreme Court's personal jurisdiction decisions and would impose unfair burdens on businesses, permit forum-shopping undermining the credibility of the judicial system, and inflict significant harm on the nation's economy.

REASONS FOR GRANTING THE MOTION

The Chamber regularly advances the interests of its members in courts throughout the country on issues of critical concern to the business community. The jurisdictional question addressed by this Court—whether a corporation may be subjected to general, all-purpose personal jurisdiction based on its registration to do business in Kansas—has the potential to affect not only Syngenta, but numerous other businesses throughout the United States.

Indeed, the issue addressed by this Court is arising with considerable frequency in courts throughout the country. The Chamber has been permitted to participate as *amicus curiae* in many

of these cases, addressing not only the governing legal principles but also the effects that a decision upholding general personal jurisdiction in these circumstances would have on the broader business community. *See Acorda Therapeutics Inc. v. Mylan Pharm. Inc.*, --- F.3d ---, 2016 WL 1077048 (Fed. Cir. Mar. 28, 2016); *In re: Magill v. Ford Motor Co.*, No. 15SA332 (Colo. Dec. 18, 2015); *Genuine Parts Co. v. Cepec*, No. 528, 2015 (Del. Nov. 19, 2015); *Int'l Paper Co. v. Hudson*, No. 508, 2015 (Del. Nov. 23, 2015); *MoneyMutual, LLC v. Riley*, No. A14-1307 (Minn. Sept. 21, 2015). The Chamber therefore respectfully submits that its *amicus* brief would be helpful to the Court in deciding whether to reexamine the question of personal jurisdiction in greater detail.

In particular, endorsement of the argument that compelled consent based on registration to do business satisfies the due process standards for general personal jurisdiction, and does not constitute an unconstitutional condition on doing business, would have the practical effect of overturning the Supreme Court's holding in *Daimler AG v. Bauman*, 134 S. Ct. at XXX, that general personal jurisdiction is limited to States in which a corporation is "at home," which means only its state of incorporation and state of principal place of business absent "exceptional" circumstances. Because every State could condition the right to do business on consent to general jurisdiction, corporations could be subjected to general jurisdiction everywhere—the very result that *Daimler* rejected as a violation of due process. The consequence would be the precise unfairness that due process prohibits—inflicting harm on businesses, the national economy, and the judicial system.

The Chamber will be prepared to file its *amicus* brief expeditiously—within two weeks—if the Court grants this motion for leave to file the brief.

CONCLUSION

For the foregoing reasons, the Court should grant the Chamber leave to file an *amicus curiae* brief in support of Syngenta's motion for reconsideration (Doc. 1763) and its Memorandum in Support Thereof (Doc. 1764).

Dated: March 25, 2016

Respectfully submitted,

/s/ Brennan P. Fagan

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CERTIFICATE OF SERVICE

I hereby certify that on March 25, 2016, a copy of foregoing document was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF System.

By: /s/ Brennan P. Fagan

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