

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION**

IN RE: DICAMBA HERBICIDES ) 1:18-md-2820 SNLJ  
LITIGATION ) ALL CASES

**JOINT MOTION OF PLAINTIFFS AND DEFENDANT MONSANTO COMPANY  
TO ESTABLISH A QUALIFIED SETTLEMENT FUND FOR THE DICAMBA  
HERBICIDES LITIGATION SOYBEAN PRODUCERS MASTER SETTLEMENT  
AGREEMENT AND APPOINT A QSF ADMINISTRATOR**

COME NOW Defendant Monsanto Company and Plaintiffs, through their undersigned counsel, and hereby move the Court to enter the attached Proposed Order (Exhibit A), establishing a Qualified Settlement Fund (the “Dicamba QSF Escrow”) within the meaning of Treasury Regulation § 1.468B-1 and pursuant to the jurisdiction conferred on this Court by Treasury Regulation § 1.468B-1(c)(1), and appointing an Escrow Agent and QSF Administrator. In support therefore, the parties state:

1. On December 16, 2020, Monsanto and the ECC entered into the In re Dicamba Herbicides Litigation Soybean Producers Agreement (the “Settlement Agreement”). As part of the Settlement Agreement, the parties agreed that Monsanto should deposit all Settlement Funds and funds sufficient to pay certain administrative expenses into a QSF account.

2. The parties have jointly selected Citibank, N.A. (the “Bank”) to be the Escrow Agent of the Dicamba QSF Escrow pursuant to the terms, conditions and restrictions of the Settlement Agreement and the In re Dicamba Herbicides Litigation QSF Escrow Agreement (the “Escrow Agreement”) (attached hereto as Exhibit B). The

Bank is well qualified to serve in this role. Accordingly, the parties request that the Court confirm the appointment of the Bank as the Escrow Agent of the Dicamba QSF Escrow.

3. The parties have jointly selected Epiq Class Action & Claims Solutions, Inc. (“Epiq”) to be the QSF Administrator of the Dicamba QSF Escrow pursuant to the terms, conditions and restrictions of the Settlement Agreement and the Escrow Agreement. Epiq is well qualified to serve in the role of the QSF Administrator. Accordingly, the parties request that the Court confirm the appointment of Epiq as the QSF Administrator of the Dicamba QSF Escrow.

4. The parties request that the Court authorize the QSF Administrator to conduct any and all activities necessary to administer the Dicamba QSF Escrow as set forth in the Settlement Agreement, the Escrow Agreement, and this Motion.

5. The parties further request that the Court authorize the QSF Administrator to instruct the Escrow Agent to segregate Dicamba QSF Escrow Assets into sub-accounts as set forth in the Settlement Agreement and the Escrow Agreement.

6. The parties request that the Court grant Monsanto the authority to instruct the Escrow Agent to invest the Escrow Funds as set forth in the Settlement Agreement and the Escrow Agreement.

7. The parties request that the Court authorize the QSF Administrator to instruct the Escrow Agent to make distributions from the Dicamba QSF Escrow consistent with the Settlement Agreement and the Escrow Agreement.

8. The parties request that the Court authorize the QSF Administrator to instruct the Escrow Agent to take appropriate steps to wind down the Dicamba QSF

Escrow and that the QSF Administrator be discharged from any further responsibility with respect to the Dicamba QSF Escrow upon (i) final distribution of all Dicamba QSF Escrow Assets or (ii) final payment of all Claims Amounts, Incentive Payments, Administrative Expenses and Dicamba QSF Escrow Expenses and Tax Expenses, whichever occurs first in time.

9. The parties request that the Court instruct that the Dicamba QSF Escrow shall be held at the Bank according to the terms, conditions and restrictions of the Settlement Agreement and the Escrow Agreement.

10. The parties request that this Court require no bond for the QSF Administrator or the Escrow Agent, provided that all Assets received by the Dicamba QSF Escrow from Monsanto pursuant to the Settlement Agreement, which include all principal and the interest earned thereon, shall be deposited by the Escrow Agent in a segregated non-interest bearing account held in custody at the Bank, for the benefit of and titled in the legal name of the Dicamba QSF Escrow and may only be invested in accordance with § 6 of the Escrow Agreement.

11. The parties further request that following the instructions of Monsanto, the Escrow Agent be authorized to invest the Dicamba QSF Escrow account such that the following investment policy is implemented: (a) safety of principal; (b) zero bank liability exposure; and/or (c) the use of zero sweep disbursement accounts.

Notwithstanding the foregoing, the parties request that the Court not allow the Escrow Agent to distribute any income or principal from the Dicamba QSF Escrow account except upon the instructions of the QSF administrator.

12. The parties further request that the Court permit the QSF Administrator to retain the right to remove the Bank and/or Escrow Agent, and designate a replacement bank and/or Escrow Agent upon the written consent of Monsanto and the ECC.

13. The parties further request that the QSF Administrator shall not be liable for any losses as a result of investing the Escrow Funds as directed by this Court and that any such losses shall not be recoverable from Claimants, the ECC or other counsel to any Claimant, Monsanto nor any other entities or individuals released from the underlying litigation, none of whom shall have any responsibility for the QSF Administrator's, Escrow Agent's and the Bank's performance.

14. The parties request that the Escrow Agent be required to confirm to the ECC and Monsanto all receipt and/or investment of the Escrow Funds as soon as practicable by account statement or other reasonable method not to exceed fifteen (15) days from the initial receipt of Escrow Funds by the Bank, and every thirty (30) days thereafter.

15. The parties further request that the Court authorize the QSF Administrator to effect qualified assignments of any resulting structured settlement liability or similar vehicle within the meaning of § 130(c) of the Internal Revenue Code to the qualified assignee, and to take all actions as provided in the Settlement Agreement, the Escrow Agreement, and this Motion.

Wherefore, Monsanto and Plaintiffs respectfully request that the Court enter the attached Proposed Order, establishing a Qualified Settlement Fund (the "Dicamba QSF Escrow") within the meaning of Treasury Regulation § 1.468B-1 and pursuant to the

jurisdiction conferred on this Court by Treasury Regulation § 1.468B-1(c)(1), and appointing the Bank as Escrow Agent and Epiq as the QSF Administrator.

Respectfully submitted,

GRAY, RITTER & GRAHAM, P.C.

By: /s/ Don M. Downing

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***Chair of the Plaintiffs Executive  
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Respectfully submitted,

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***Attorneys for Defendant Monsanto  
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**CERTIFICATE OF SERVICE**

I hereby certify that on May 20, 2021, the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system to all counsel of record.

/s/ Christopher M. Hohn