

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

CITY OF GREENVILLE, ILLINOIS, *et al.*)

)

Individually and on behalf of all others)

similarly situated,)

)

Plaintiffs,)

)

v.)

Case No. 10-188-JPG

)

SYNGENTA CROP PROTECTION,)

INC., and SYNGENTA AG,)

)

Defendants.)

**PLAINTIFFS’ SUPPLEMENTAL AUTHORITY IN OPPOSITION TO
SYNGENTA AG’S RULE 12(B)(2) MOTION TO DISMISS
FOR LACK OF PERSONAL JURISDICTION**

Two weeks ago, a unanimous panel of the Ninth Circuit reversed a district court and held that the German conglomerate Daimlerchrysler AG (“DCAG”) was subject to general jurisdiction in California for the in-state activities of its U.S. subsidiary (“MBUSA”). *See Bauman v. DaimlerChrysler Corp.*, 07-15386, 2011 WL 1879210 (9th Cir. May 18, 2011). The *Bauman* decision is relevant to Syngenta AG’s (“SAG”) pending motion to dismiss (Doc. 26) for four reasons:

1. The *Bauman* court correctly required plaintiffs to make only a *prima facie* showing of jurisdictional evidence because, as in this case, the district court did not hold an evidentiary hearing on the jurisdictional issue. *Id.* at *2, 11.
2. Relying on Second Circuit precedent, the *Bauman* court correctly looked to the financial importance of the subsidiary’s in-state activities to the parent in

finding that MBUSA was DCAG's agent for jurisdictional purposes: if MBUSA did not exist, DCAG would have to create it. *Id.* at *8-9. Similarly, Syngenta Crop Protection, Inc.'s ("SCPI") sales of agricultural chemicals like atrazine in Illinois are indispensable to SAG's bottom line. *See* Doc. 112, pp. 18-20. If SCPI did not exist, SAG would have to create another subsidiary or sell its products in Illinois itself.

3. Relying on black-letter agency principles, the *Bauman* court correctly looked to DCAG's *right to control* MBUSA, rather than its exercise of "day-to-day control." The court recognized that although MBUSA "may exercise a considerable amount of discretion in performing [its] functions," DCAG's right to control MBUSA subjected it to general jurisdiction. *Id.* at *10-11. Plaintiffs here produced evidence showing that SAG not only has the right to control virtually every aspect of SCPI's business, but it also exercises that right. *See* Doc. 112, pp. 5-33.
4. The *Bauman* court exercised jurisdiction over DCAG even though the plaintiffs' claim had no connection to California. Plaintiffs here, by contrast, are suing SAG for contaminating Illinois drinking water with products that it sold (through SCPI) in Illinois. Illinois has a much greater interest in exercising jurisdiction over SAG than California did over DCAG.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2011, I electronically filed Plaintiffs' Supplemental Authority in Opposition to Syngenta AG's Rule 12(b)(2) Motion to Dismiss with the Clerk of Court using the CM/ECF system, which will electronically deliver notice of the filing to:

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