



JANUARY 2025

# FARM LITIGATION REPORT



# Don's Opening Statement

Don Downing (ddowning@grgpc.com)



We hope you have survived the bitter cold this winter. Spring will soon be here, and along with it, the annual job of getting your fields ready for planting. In a similar way, we at GRG plant seeds (in the form of evidence) in the minds of jurors who hear our cases. But before we do, we must lay an evidentiary foundation (in other words, get those fields ready for planting) so that when we plant those seeds, the jurors have a full understanding of the context so that those seeds can develop into the type of harvest we seek for our clients. This process takes a lot of hard work, much like farming does. But in the end, a bountiful harvest makes all that hard work worth it.

Now let me give you a preview of this edition of the GRG Farm Litigation Report. Like in our last edition, we have included an article from one of our many farmer clients – southeast Missouri farmer, Ronnie Lance. We represented Ronnie in the dicamba litigation. From 2016 to 2020, Ronnie experienced dicamba damage on his soybean, watermelon, and tomato crops from off-target movement of dicamba sprayed in the surrounding area. That dicamba damage led to significant yield loss and lost revenue. We were honored that Ronnie asked us to represent him and appreciate his kind words about our work in his case.

Speaking of dicamba, GRG attorney Jack Downing provides an update of the dicamba litigation. We continue to represent farmers who have suffered dicamba damage on soybeans, fruit, and vegetable crops in the years 2021 through 2024. Jack provides some helpful information on what you need to do if you believe you have suffered dicamba damage in any of those years.

Jack also has provided an update to the paraquat litigation. The first bellwether trials are now scheduled for later this year. If you, any family member or friend has been diagnosed as having Parkinson's disease and believe it may be from exposure to paraquat, please contact Jack or another GRG attorney Tom Neill.

Also included in this edition is another article from Jack about an eye-opening deer repellent study conducted by the University of Missouri. It raises serious questions about the effectiveness of certain deer repellent products that were tested. If you have purchased deer repellent products, have been dissatisfied with their effectiveness, and believe you may have lost yield as a result, we would be happy to talk to you about whether you might have a claim.

Next is an update from me on the tractor hydraulic fluid litigation. As you may already know, after years of litigation, we were able to reach a \$31.9 million settlement against the manufacturers of certain tractor hydraulic fluid products. I provide information on what products are involved, and what you need to do and when you need to do it if you purchased any of those products and want to submit a claim for compensation.

The newest member of our GRG agricultural litigation team, Dan Ritter, provides an article about certain John Deere Mowers that have been recalled due to reports of faulty voltage regulators in Kawasaki engines. If you have any of those mowers, Dan provides information on what you need to do to get a free repair and minimize personal or property injury due to the fire risk created by faulty voltage regulators.

Dan next provides an important update regarding the status of over-the-top dicamba herbicide use in 2025. Significant changes have been made for the growing season this year that will affect all dicamba applicators. A full breakdown of the current situation is included in his article.

Last, but certainly not least, is an article from GRG legal assistant Tina Williams. Beginning with our rice litigation in 2006, continuing through our Syngenta and dicamba litigation, to this day, Tina has provided invaluable assistance in prosecuting these cases through discovery, jury trials, appeals and settlements. One of her favorite job tasks, as she explains, is working with farmers. I think you will enjoy reading some of her anecdotes.

That's all from me for now. Best wishes to you and your family for a prosperous 2025.

Very truly yours,

*Don Downing*



The choice of a lawyer is an important decision and should not be based solely upon advertisements. Past results obtained on behalf of clients is not in any way a guarantee of future results in that every case is different and must be judged on its own merits.

*\*If you prefer to receive this newsletter by email, please email my assistant Tina Williams ([twilliams@grgpc.com](mailto:twilliams@grgpc.com)) your current email address. If you do not wish to receive this newsletter, please let Tina know and we will delete you from our mailing list.*

## GUEST COLUMN

# Testimonial from GRG Client Ronnie Lance



**“My experience in pursuing crop injury claims with Gray Ritter Graham”**

I have farmed for decades near Poplar Bluff in Southeast Missouri. From 2016 to 2020, I experienced significant chemical damage to my soybean, watermelon, and tomato crops. At first, I did not know what the issue was – it was symptomatology I had not seen before. Over those years, it became well known that, in my area, the dicamba-based chemicals were prevalent and causing widespread injury to non-tolerant crops. Before long, it was apparent that my crops were suffering from dicamba damage.

As each year passed, the dicamba symptomatology in my fields became more significant and identifiable. It was clearly causing a big decrease in my yields. The loss in revenue each year made it difficult to get by, and there was nothing I could do on the farm to stop it. I had no choice but to pursue a claim for the damage.

Fortunately, through several of my neighbors, I discovered Gray Ritter Graham. Based on what I had heard, I knew they would be willing to take the time to look into my dicamba situation. I called Jack Downing at GRG, who was happy to represent me. During an initial meeting, we developed a plan to recover for the injuries to my soybeans (through the 2015-2020 global soybean settlement claims process) and my watermelon and tomatoes (through a separate individual claim). He was with me every step of the way during the process, and ultimately secured fair compensation for me for both of them.

I was incredibly pleased with the results of my dicamba claims. I am so grateful for Jack Downing and the whole GRG team for what they have done for me and my family.



# Dicamba Claims Update

Jack Downing (jdowning@grgpc.com)

The \$400 million nationwide dicamba settlement claims process is nearly complete. Only a few claims remain to be paid. The settlement provided compensation for yield loss suffered by farmers due to documented soybean injury from off-target movement of dicamba from 2015 to 2020. In addition to soybean damage, the \$400 million settlement also provided compensation to growers of other crops damaged by off-target movement of dicamba. A large number of our clients have settled their claims and received compensation. We continue to represent growers of a variety of crops who suffered injury due to off-target movement of dicamba, and we have been successful in resolving their claims. We will continue to do so for damages occurring from 2021 to 2024.



To the extent you believe your soybeans or other crops were impacted by dicamba, it is important to maintain any and all records showing evidence of your injury, including: photographs, crop scout reports, notes of observations of any third parties or experts who saw your damaged fields, all records showing your historical yields in the affected fields, and any other documents you believe would be useful. Bayer also has requested that it be afforded an opportunity to observe the damage while it exists in the fields. We urge you to notify us immediately if you observe dicamba damage on your farm this year.

If you or anyone you know has suffered dicamba injury in recent years, please reach out to our firm for assistance or answers. Inquiries can be directed to Jack Downing (jdowning@grgpc.com).

# Paraquat MDL Update

Jack Downing (jdowning@grgpc.com)

Gray Ritter Graham is continuing to accept cases from farmers diagnosed with Parkinson's disease resulting from paraquat exposure. The Multi-District Litigation (often referred to as an "MDL") remains ongoing to provide compensation to individuals diagnosed with Parkinson's disease resulting from paraquat exposure. There are presently thousands of cases in the MDL, including several farmers represented by GRG. The first trials in the MDL are now set for October 2025 and April 2026.



Parkinson's disease is serious, incurable, and may be a real threat facing anyone in the agricultural industry who has been using Gramoxone or other paraquat products since 1964. Many farmers suffering from Parkinson's disease around the country have filed lawsuits seeking to hold Gramoxone's manufacturers (including the Chinese-owned company Syngenta) accountable for this devastating disease.

The MDL is pending in the United States Court for the Southern District of Illinois in East St. Louis – right across the river from Gray Ritter Graham's offices in downtown St. Louis. Any questions you may have can be directed to Tom Neill (tneill@grgpc.com) or Jack Downing (jdowning@grgpc.com).

# A Recent Study Finds Deer Repellents to be Ineffective in Deterring Deer Browsing on Soybeans

Jack Downing (jdowning@grgpc.com)

Deer browsing on row crops pose a significant risk to growers. Agricultural manufacturers have tried to create a variety of products to combat deer browsing. A recent University of Missouri study has found that several of the leading deer repellent products do not offer growers adequate protection from deer browsing on soybeans.

The study was led by University of Missouri Weed Scientist, Kevin Bradley, and graduate student, Grady Rogers, and it measured the effectiveness of five of the leading deer repellent products (Liquid Fence, Bobbex, Hinder, PlantSkydd, and PenergeticbWV) in deterring deer browsing on soybean plots. These products are made up of proprietary blends of various natural compounds such as bovine blood, garlic oil, and egg solids. As a basis for the study, Bradley noted that “[a]lthough a variety of deer repellent products are available, there is limited research on their effectiveness in preventing deer from feeding or on, their impact on weed control when used alongside standard post-emergence (POST) herbicide treatments.”<sup>1</sup>

For this study, two separate fields were used near Columbia, Missouri in areas with many deer. On both fields, each of the products were tested on individual plots and compared to fenced-in control plots inaccessible to deer, as well as an open plot treated with only herbicides. During the season, each test plot was sprayed with one of the five deer repellent products every three weeks. This is likely far in excess of what would be feasible for most growers, as each application is costly and time consuming.



Notwithstanding the numerous applications, none of the deer repellent products showed statistically significant effectiveness in deterring deer browsing. Yields on the plots treated with the deer repellents were similar the yields on the open herbicide-only plots. The fenced-in plots had dramatically higher yields compared to all open plots. The deer browsing reduced soybean yield by 27 to 37 percent compared to the exclusion control group.

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“Influence of Deer Repellent and Herbicide Combinations on Weed Control and Deer Browsing in Soybean” Grady Rogers, Grant Coe, Trace Thompson, Haylee Barlow, Matheus Noguera, Josh Bradley, and Kevin Bradley (2025) (available at [https://weedsience.missouri.edu/slideshows/deer\\_study\\_2024.pdf](https://weedsience.missouri.edu/slideshows/deer_study_2024.pdf)).

# Tractor Hydraulic Litigation Update March 1, 2025, Deadline for Submitting Claims for Compensation from the Settlement

Don Downing (ddowning@grgpc.com)

In past issues of the GRG Farm Litigation Report, we have reported upon our efforts to achieve justice for farmers and others who purchased certain brands of tractor hydraulic fluid. We alleged that those products did not properly function as tractor hydraulic fluid and in fact harmed tractors and other hydraulic equipment in which they were used. The litigation sought return of the purchase price and compensation for damage to equipment in which the products were used. The Manufacturers denied these allegations and that any compensation was needed or appropriate.



After years of litigation in which dozens of depositions were taken, hundreds of thousands of documents were produced, many experts were retained, and with a trial date fast approaching, we are pleased to inform you (if you do not already know) that a **\$31.9 million settlement was reached** with the manufacturers (after previous settlements with others). The settlement has been preliminarily approved by the Court but still is subject to final approval. The final approval hearing is currently scheduled for late March of this year.

The settlement website can be visited at [www.303tractorhydraulicfluidsettlement.com](http://www.303tractorhydraulicfluidsettlement.com). The website includes important details regarding the settlement – including common questions and answers about the settlement and documents such as the Long Form Notice, the Manufacturer Class-Action Settlement and Manufacturer Settlement Claim Form, among additional information. If you are eligible for compensation as explained below, you can also make a claim for compensation through the website.

The following are eligible to make claims: all persons and entities who purchased **Super S Super Trac 303 Tractor Hydraulic Fluid, Super S 303 Tractor Hydraulic Fluid, CAM2 ProMax 303 Tractor Hydraulic Oil, and/or CAM2 303 Tractor Hydraulic Oil** in the United States between December 1, 2013 and the present. Note that excluded from the Class are persons and entities who solely purchased Super S Super Trac 303 Tractor Hydraulic Fluid in Missouri. You can make a claim and receive compensation even if you have not suffered any known damage to your equipment. If you believe you have suffered damage to your equipment related in whole or in part to use of these products, you can make a claim for that damage too.

**The deadline for making a claim is March 1, 2025. If you purchased any of these products, you should carefully read all the information on the settlement website, including the Long Form Notice. If you are eligible and choose to make a claim, you must do so in the manner and within the time period set forth in the Long Form Notice (which you can access through the website referenced above.). If you wish to be excluded from the settlement and not receive compensation but preserve any claim you might have, you must do that by March 1, 2025, and do so as specified in the Long Form Notice. If you are eligible to make a claim and do nothing, you will be bound by the settlement (if finally approved), you will have released your claims, and you will not be eligible to receive any monetary award. The March 1, 2025, deadline for making a claim is fast approaching, so please do not delay.**

We have been honored to represent farmers and others across the country in this litigation.

# Alert: 39,000 John Deere ZTrak™ Zero Turn Mowers Recalled

Dan Ritter (dritter@grgpc.com)

John Deere ZTrak™ Zero Turn Mowers sold from October 2018 through September 2024 have been recalled based on reports of faulty voltage regulators in Kawasaki engines. The following models and serial number ranges include:

Model	Start Serial Number	End Serial Number
Z720E	1TC720E****010001	1TC720E****080657
Z730M	1TC730M****010001	1TC730M****080574
Z740R	1TC740R****010001	1TC740R****080462
Z760R	1TC760R****080001	1TC760R****080339

## What's the Significance of a Faulty Voltage Regulator?

A faulty voltage regulator can cause the engine to overheat while in use or in storage. So far, John Deere has learned of five fires and twenty-six reports of melting and/or smoking reportedly in connection with the faulty voltage regulator.

## How to Know if Your Mower is Impacted?

Kawasaki and John Deere are contacting all known purchasers directly, but if you have not been contacted, sales records are one way to determine whether your mower is impacted. Also, these mowers have the model number printed on the front of the mower below the seat. Serial numbers are located on the right side near the rear tire.

## What to do if you have an Impacted Mower?

**First**, stop using the mower.

**Second**, contact an authorized dealer to schedule a free repair.

**Third**, until the mower is repaired, we recommend storing your mowers safely away from any structures or equipment because the faulty voltage regulator can cause the engine to overheat even while stored and lead to a fire.



To contact John Deere concerning this recall, call 800-537-8233 (Monday through Friday from 8 a.m. to 6 p.m. ET; Saturday 9 a.m. to 3 p.m. ET). You can reach John Deere online at [www.deere.com](http://www.deere.com) and then under the "Parts & Service" heading located at the top of the webpage, click on "Recalls" within the drop-down menu. You can also contact Kawasaki by calling toll-free at 866-836-4463 (Monday through Friday from 8 a.m. to 6 p.m. ET), or online at [www.kawasak enginesusa.com/product-recall.html](http://www.kawasak enginesusa.com/product-recall.html) or [www.kawasak enginesusa.com](http://www.kawasak enginesusa.com) and click on "Product Recall" at the bottom of the homepage under "Support & Resources" for more information.

Finally, if you or anyone you know has suffered any property damage impacting your business or physical injury from John Deere's equipment malfunctioning, please feel free to reach out to our firm with any questions. Any questions can be directed to Dan Ritter (dritter@grgpc.com).



# Update: Over-The-Top Dicamba for Soybeans & Cotton and Differences Between Proposed Labels

Dan Ritter (dritter@grgpc.com)

Using XtendiMax, Engenia, or Tavium on dicamba tolerant soybeans and cotton is now unlawful after a federal district court vacated over-the-top (“OTT”) registration for these dicamba products.

The federal district court’s decision caused a flurry of activity from the EPA, Bayer, BASF, and Syngenta. Understanding their actions and potential areas of confusion will help your operation plan during these stressful times.



## Actions After the Decision

The EPA did not appeal the federal court’s ruling. But the EPA issued a stock order authorizing the sale and distribution of existing stocks that were already in the possession of distributors, retailers, and end users.

Under the stock order, end users of existing stocks had to use the products consistent with the previous label and with their state’s cutoff dates. For instance, in Missouri, June 30, 2024 was the last day to use existing stocks of XtendiMax, Engenia or Tavium on dicamba tolerant soybeans.

In Spring 2024, Bayer, BASF, and Syngenta submitted applications for reauthorization for OTT product labels. Bayer submitted a label in March 2024 as an R170 label which carries a mandatory review period of 17 months. Even if the review concludes in the fall 2025, Bayer’s proposed label would then go through the Endangered Species Act consultations which “could add months to years to the process,” according to Brigit Rollins of the National Agricultural Law Center.

BASF submitted its dicamba label a month later. Followed by Syngenta. EPA’s decisions on these labels would likely follow its decision on Bayer’s proposed label.

## Potential For Confusion: Differences Between the Proposed Labels

All three labels propose the same use patterns in dicamba-tolerant cotton. But Bayer’s proposed label prohibits any OTT use on soybeans – while Engenia and Tavium would allow OTT use on soybeans.

Bayer’s label also could cause confusion because on the first page it asserts that the herbicide is approved in dicamba-tolerant cotton and dicamba-tolerant soybeans. The label then explains that use of dicamba on tolerant soybean may be applied preplant, at-planting, and preemergence, but never simply states that users are prohibited from applying dicamba OTT on soybeans or explains how the label now prohibits any OTT use on soybeans.

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## Looking Ahead

Whether the EPA takes speedy action on the proposed labels or the registration status of older dicamba herbicides never labeled for OTT use – checking the EPA’s website and continuing to stay up to date will continue to be crucial for your operation.

Operations will also look to other options over the next couple of seasons, including: (1) exploring the effectiveness of other herbicides (glufosinate, 2,4-D, and glyphosate); (2) working with residuals (pre-emergence, early postemergence); (3) switching variety technologies; and (4) crop rotation.

Whatever you decide for your operation, we understand this a stressful time. Please feel free to reach out to our firm with any questions, you or others might have or for any assistance.

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# Working With Our Farmers

Tina Williams (twilliams@grgpc.com)

For the past 20 years, I have had the privilege of working with our commercial litigation team and our dedicated farmer clients. While there are many positives to working with these hardworking individuals, the highlight for me has always been the personal interactions we share. Throughout the progression of their cases, I've often reached out to them numerous times, and our conversations, always lighthearted, have left a lasting impression, some more memorable than others.



During the claims process of one case, I had the pleasure of numerous conversations with a farmer client and his wife. Over time, we developed a genuine rapport, enjoying friendly banter during our exchanges. We became so familiar with each other that the couple joked about setting a chair for me at their Thanksgiving table and even asked what my favorite dish was. Moments like these make my work truly rewarding.

One of the most fulfilling aspects of my role is the ability to maintain connections with our farmer clients long after their cases conclude. I like to think it's comforting for them to recognize the voice on the other end of the line and know that I am familiar with their story.

Over the years, many clients have shared glimpses of their lives with me - stories about family milestones, children's weddings, births, vacations, and life's inevitable changes. It's a privilege to hear these stories, and I hope to continue being a steady presence for them in the years to come.





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