



 **Monsanto vs.**

**U.S. Farmers**

2005

## Executive Summary

In May 2003, the Center for Food Safety embarked on a project to determine the extent to which American farmers have been impacted by litigation arising from the use of patented genetically engineered crops. After extensive research and numerous interviews with farmers and lawyers, CFS found that Monsanto, the world's leading agricultural biotechnology company, has used heavy-handed investigations and ruthless prosecutions that have fundamentally changed the way many American farmers farm. The result has been nothing less than an assault on the foundations of farming practices and traditions that have endured for centuries in this country and millennia around the world, including one of the oldest, the right to save and replant crop seed.

Monsanto's position as a leader in the field of agricultural biotechnology and its success in contractually binding farmers to its genetically engineered seeds result from its concerted effort to control patents on genetic engineering technology, seed germplasm, and a farmer's use of its engineered seed. Monsanto begins the process of seizing control of farmers' practices by getting them to sign the company's technology agreement upon purchasing patented seeds. This agreement allows Monsanto to conduct property investigations, exposes the farmer to huge financial liability, binds the farmer to Monsanto's oversight for multiple years, and includes a variety of other conditions that have effectively defined what rights a farmer does and does not have in planting, harvesting, and selling genetically engineered seed.

In general, Monsanto's efforts to prosecute farmers can be divided into three stages: investigations of farmers, out-of-court settlements, and litigation against farmers Monsanto believes are in breach of contract or engaged in patent infringement. Monsanto itself admits to aggressively investigating farmers it suspects of transgressions, and evidence suggests the numbers reach into the thousands. According to farmers interviewed by CFS, these thousands of investigations frequently lead to the second stage: Monsanto pressuring the farmer to settle out of court for an undisclosed sum and other terms agreed to in confidential settlements.

For some farmers, Monsanto's investigation of them will lead to the courtroom. To date, Monsanto has filed 90 lawsuits against American farmers. The lawsuits involve 147 farmers and 39 small businesses or farm companies, and have been directed at farmers residing in half of the states in the U.S. The odds are clearly stacked against the farmer: Monsanto has an annual budget of \$10 million dollars and a staff of 75 devoted *solely* to investigating and prosecuting farmers.

The largest recorded judgment made thus far in favor of Monsanto as a result of a farmer lawsuit is \$3,052,800.00. Total recorded judgments granted to Monsanto for lawsuits amount to \$15,253,602.82. Farmers have paid a mean of \$412,259.54 for cases with recorded judgments.

Startling though these numbers are, they do not begin to tell the whole story. Many farmers have to pay additional court and attorney fees and are sometimes even forced to pay the costs Monsanto incurs while investigating them. Final monetary awards are not available for a majority of the 90 lawsuits CFS researched due to the confidential nature of many of the settlements.

No farmer is safe from the long reach of Monsanto. Farmers have been sued after their field was contaminated by pollen or seed from someone else's genetically engineered crop; when genetically engineered seed from a previous year's crop has sprouted, or "volunteered," in fields planted with non-genetically engineered varieties the following year; and when they never signed Monsanto's technology agreement but still planted the patented crop seed. In all of these cases, because of the way patent law has been applied, farmers are technically liable. It does not appear to matter if the use was unwitting or a contract was never signed.

Since the introduction of genetically engineered crops, farming for thousands of America's farmers has been fundamentally altered; they have been forced into dangerous and uncharted territory and have found they are the worse for it. As growing numbers of farmers become subject to harassment, investigation, and prosecution by Monsanto over supposed infringement of its seed patents and technology agreements, there will have to be increased pressure to reverse the governmental policies that are allowing this persecution. Various policy options include passing local and state-wide bans or moratoriums on plantings of genetically engineered crops; amending the Patent Act so that genetically engineered plants will no longer be patentable subject matter and so that seed saving is not considered patent infringement; and legislating to prevent farmers from being liable for patent infringement through biological pollution. Implementation of these, and a variety of other options discussed in more detail in the report, is critical. Nothing less than the future of America's farmers and farming communities is at stake.



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