

# NOTICE OF AUTHORIZATION OF A CLASS ACTION



## WERE YOU A BEEKEEPER IN QUÉBEC BETWEEN JANUARY 1, 2006 AND FEBRUARY 20, 2018?

**If so, a class action might affect your legal rights.  
Please read this notice carefully.**

On February 20, 2018, the Honourable Justice Thomas M. Davis, of the Superior Court of Québec, authorized the Plaintiff Steve Martineau to proceed with a class action on behalf of persons in Québec who own or owned honey bees, including queen bees, against Bayer CropScience Inc., Bayer Inc., Bayer CropScience AG, Syngenta Canada Inc. and Syngenta International AG (the “Defendants”) in relation to neonicotinoid pesticides.

### WHAT IS THIS CLASS ACTION ABOUT?

This class action concerns allegations that the Defendants researched, designed, developed, produced, distributed, marketed and/or sold neonicotinoids that caused honey bee colony losses resulting in financial damages or losses to beekeepers.

These allegations are vigorously contested by the Defendants. According to the Defendants, neonicotinoids do not cause honey bee colony loss or financial damages or losses to beekeepers when used in accordance with the product labelling and instructions.

The class action will be heard in the judicial district of Montreal.

### AM I A CLASS MEMBER?

This action was authorized on behalf of the following Class:

“All persons in Québec who own or owned Bees\* in the Affected Area\*\* during the Class Period\*\*\*.”

\* “Bees” means honey bees, including queen bees.

\*\* “Affected Area” means the area located in, and within 11,27 km (7 miles) of, regions zoned and designated for agricultural use in Québec.

\*\*\* “Class Period” means the period between January 1, 2006 and February 20, 2018.

## WHAT STEPS SHOULD I TAKE TO PROTECT MY RIGHTS?

If you are part of the Class described above, you are automatically included in this class action. **If you wish to remain a part of this class action and be included in any judgment rendered, you do not have to do anything at this time but you should** register with Class Counsel (Siskinds Desmeules) to receive updates on the progress of the class action. You can do this by contacting Class Counsel, whose contact information appears at the end of this notice, or visiting the class action website: [www.siskinds.com/neonic](http://www.siskinds.com/neonic), and clicking on the "Receive updates on this case" button.

To protect your rights under this class action, you should also keep all of your records that might be relevant to this class action, such as :

- Records of any financial damages and/or losses you suffered, including records of bee and beehive losses, and costs of bee, beehive and equipment replacements;
- Pesticide presence/honey bee mortality/ test reports and records of the costs of these tests;
- Any other relevant financial, laboratory or photographic records.

## WHAT IS THE GOAL OF THE CLASS ACTION?

The goal of this class action is to recover monetary damages from the Defendants to compensate for the financial damages or losses suffered by the Class members allegedly caused by the effects of neonicotinoid pesticides on honey bee colonies (such as reproductive and behavioral problems, reduced honey production and death, including death of queen bees).

Punitive damages are also claimed for the benefit of Class members.

The action will be contested by the Defendants.

## WHAT ARE THE CLASS-WIDE ISSUES THAT THIS CLASS ACTION WILL DECIDE?

The class action will decide the following issues (the "common issues") on behalf of the Class as a whole:

- a) Can any neonicotinoid based pest control products researched, designed, developed, manufactured, marketed, distributed and sold by Bayer CropScience AG and/or Bayer CropScience Inc. and/or Bayer Inc. in Québec during the class period (i.e. imidacloprid, clothianidin and their related end-use products approved for agricultural use) cause honeybee colony loss resulting in financial damages or losses to beekeepers?
- b) Can any neonicotinoid based pest control product researched, designed, developed, manufactured, marketed, distributed and sold by Syngenta International AG and/or Syngenta Canada Inc. in Québec during the class period (i.e. thiamethoxam and its related end-use products approved for agricultural use) cause honeybee colony loss resulting in financial damages or losses to beekeepers?
- c) Did Bayer CropScience AG and/or Bayer CropScience Inc. and/or Bayer Inc. commit a fault in violation of section 1457 C.C.Q. in the research, design, development, manufacture, marketing, distribution and/or sale of neonicotinoids?
- d) Did Bayer CropScience AG and/or Bayer CropScience Inc. and/or Bayer Inc. commit a fault in violation of section 1457 C.C.Q. by failing to warn the Class about the risks to Bees associated with neonicotinoids?
- e) Did Bayer CropScience AG and/or Bayer CropScience Inc. and/or Bayer Inc. commit a fault in violation of section 1457 C.C.Q. by making misstatements with respect to the risks to Bees associated with neonicotinoids?
- f) If the above questions are answered in the affirmative, did the Plaintiff and the Class suffer damages as a result of the conduct of Bayer CropScience AG and/or Bayer CropScience Inc. and/or Bayer Inc.?
- g) Did Syngenta International AG and/or Syngenta Canada Inc. commit a fault in violation of section 1457 C.C.Q. in the research, design, development, manufacture, marketing, distribution and/or sale of neonicotinoids?
- h) Did Syngenta International AG and/or Syngenta Canada Inc. commit a fault in violation of section 1457 C.C.Q. by failing to warn the Class about the risks to Bees associated with neonicotinoids?
- i) Did Syngenta International AG and/or Syngenta Canada Inc. commit a fault in violation of section 1457 C.C.Q. by making misstatements with respect to the risks to Bees associated with neonicotinoids?
- j) If the above questions are answered in the affirmative, did the Plaintiff and the Class suffer damages as a result of the conduct of Syngenta International AG and/or Syngenta Canada Inc.?
- k) What is the nature and amount of the damages each member of the Class is entitled to?

l) Are the Defendants jointly, or severally, liable for compensatory damages suffered by the Class?

**WHAT ARE THE PRINCIPAL CONCLUSIONS SOUGHT BY THIS CLASS ACTION?**

**GRANT** Plaintiff's action;

**CONDEMN** Defendants Bayer CropScience AG and/or Bayer CropScience Inc. and/or Bayer Inc. to pay Plaintiff and the Class Members an amount to be determined as compensatory damages, the whole with interest and additional indemnity pursuant to section 1619 C.C.Q. from the date of service of the Motion for Authorization to Institute a Class Action and to Obtain the Status of Representative;

**CONDEMN** Defendants Bayer CropScience AG and/or Bayer CropScience Inc. and/or Bayer Inc. to pay Plaintiff and the Class Members an amount to be determined as punitive damages and/or grants Plaintiff and the Class Members such further relief as appropriate;

**CONDEMN** Defendants Syngenta International AG and/or Syngenta Canada Inc. to pay Plaintiff and the Class Members an amount to be determined as compensatory damages, the whole with interest and additional indemnity pursuant to section 1619 C.C.Q. from the date of service of the Motion for Authorization to Institute a Class Action and to Obtain the Status of Representative;

**CONDEMN** Defendants Syngenta International AG and/or Syngenta Canada Inc. to pay Plaintiff and the Class Members an amount to be determined as punitive damages and/or grant Plaintiff and the Class Members such further relief as appropriate;

**THE WHOLE** with costs, including the costs of all exhibits, experts, expertise and publication notices.

**CAN I SPEAK TO THE COURT ABOUT THIS CLASS ACTION?**

You can ask the Court to intervene in the class action. Your request may be allowed if the Court decides that your intervention would be useful to the Class.

If you intervene or retain counsel for this purpose, you will be responsible for any associated legal costs.

## WHO REPRESENTS THE CLASS AND HOW ARE CLASS COUNSEL PAID?

The Québec Superior Court has named Mr. Steve Martineau to represent the Class.

The law firm Siskinds Desmeules is Class Counsel.

Class Counsel will only be paid if monetary benefits and/or other benefits are obtained for the Class. In that event, Class Counsel will seek payment of their legal fees and expenses, to be paid directly from the amount obtained. Class Counsel fees and expenses must be approved by the Court.

Class members will not be asked to pay out-of-pocket for the legal costs arising from the class action.

## HOW CAN I OPT-OUT OF THIS CLASS ACTION?

If you want to opt-out of this class action, you must send a letter addressed to the clerk of the Superior Court of Québec for the District of Montreal, located at the Montreal Courthouse, 1, rue Notre-Dame Est, Montréal (Québec), H2Y 1B6, **on or before December 11, 2018** (the “Opt-out Deadline”). The letter must include: your name and address, the Court file number (500-06-000714-143) and a statement indicating that you wish to opt-out of the class action.

Please also send a copy of your opt-out letter to Class Counsel, whose contact information appears at the end of this notice.

If you opt-out: You will not be able to participate in this class action, and you will not be bound by any judgment or eligible to participate in any settlement reached in this class action. You will keep any right you have to sue the Defendants in your own, individual case.

If you do not opt-out: You will be able to participate in this class action, and you will be bound by any judgement rendered or settlement in this class action. You will not keep any right you have to sue the Defendants in your own individual case.

In general, only those who wish to institute an individual action at their expense have an interest in opting-out.

Any member of the Class who has already filed an application with the same subject matter as the class action is deemed to have opted-out of the class action unless that member abandons their application before the Opt-out Deadline.

## WHERE CAN I GET MORE INFORMATION?

For more information, or to register to receive updates on the progress of this class action, visit [www.siskinds.com/neonic](http://www.siskinds.com/neonic) or contact Class Counsel:

**Siskinds, Desmeules, Avocats**

Les Promenades du Vieux-Québec

43, rue de Buade, bureau 320

Québec (Québec) G1R 4A2

Tel. (418) 694-2009

Email : [recours@siskindsdesmeules.com](mailto:recours@siskindsdesmeules.com)

You can also consult the Registry of class actions :

<http://www.tribunaux.qc.ca/>

or the Canadian class actions database :

[www.cbaapp.org/ClassAction/Search.aspx](http://www.cbaapp.org/ClassAction/Search.aspx)

**PUBLICATION OF THIS NOTICE HAS BEEN APPROVED AND ORDERED BY THE  
SUPERIOR COURT OF QUÉBEC**

Another notice will be published when a final judgment is rendered