

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

JIM AANA, et al., on behalf
of themselves and all others
similarly situated,

Plaintiffs,

vs.

PIONEER HI-BRED
INTERNATIONAL, INC., a DuPont
Business and Iowa
Corporation, GAY & ROBINSON,
INC., a Hawaii corporation;
ROBINSON FAMILY PARTNERS, a
general partnership
registered in Hawaii; and DOE
DEFENDANTS 1-10,

Defendants.

JEFFREY CASEY, et al., on
behalf themselves and all
others similarly situated,

Plaintiffs,

vs.

PIONEER HI-BRED
INTERNATIONAL, INC., et al.,

Defendants.

CIVIL NO. 12-00231 LEK-BMK
CIVIL NO. 12-00665 LEK-BMK

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
MAY 8 2015
at 2 o'clock and 5 min. M.
SUE BEITIA, CLERK

SPECIAL VERDICT FORM

You may read the entire verdict form before answering the questions. You must answer all of the questions, unless otherwise indicated. Answer the questions in numerical order. Follow all directions. After you have answered all required

questions, the foreperson shall sign and date the Special Verdict Form, inform the Court that a verdict has been reached, and contact the bailiff.

We, the jury, answer the questions submitted to all of us as follows:

1. With respect to all claims, did Plaintiffs prove by a preponderance of the evidence that Pioneer failed to follow generally accepted agricultural and management practices after December 13, 2009?

Answer:

Yes ☒ No ☐

If your answer to question 1 is "yes", then go to question 2. If your answer to question 1 is "no", please stop. The foreperson should sign and date this form, and call the bailiff.

2. During what period of time after December 13, 2009 did Pioneer fail to follow generally accepted agricultural and management practices?

Answer: (Please state the period of time)

Starting from December 13, 2009 to December 31, 2011.

Please proceed to answer question 3.

3. Did each Plaintiff prove by a preponderance of the evidence that Pioneer's farming operation was a legal cause of damage to each of them?

Answer:

Allen Arquette	Yes	<u>X</u>	No	_____
Susan Arquette	Yes	<u>X</u>	No	_____
Edwin Dela Cruz	Yes	<u>X</u>	No	_____
Kristine Dela Cruz	Yes	<u>X</u>	No	_____
Eric Erdmann	Yes	<u>X</u>	No	_____
Shelby-Ann Erdmann	Yes	<u>X</u>	No	_____
Mitsuko Ho'okano	Yes	<u>X</u>	No	_____
Michael Kunselman	Yes	<u>X</u>	No	_____
Vivian Kunselman	Yes	<u>X</u>	No	_____
Giuseppe "Jo" Gerek-King	Yes	<u>X</u>	No	_____
James McGihon	Yes	<u>X</u>	No	_____
Dionis McGihon	Yes	<u>X</u>	No	_____
Dennis Okihara	Yes	<u>X</u>	No	_____
Michael Stephenson	Yes	_____	No	<u>X</u> _____
Gary Underwood	Yes	<u>X</u>	No	_____
Ann Marie Underwood	Yes	<u>X</u>	No	_____

If your answer to question 3 is "yes" as to any Plaintiff, then proceed to answer question 4, but only as to each Plaintiff for whom you answered "yes" to question 3. If your answer to question 3 is "no" as to each and every Plaintiff, please stop. The foreperson should sign and date this form, and call the bailiff.

4. With respect to the Trespass claim, did each Plaintiff prove by a preponderance of the evidence that

a. each owned, leased, occupied or controlled the property?

Answer:

Allen Arquette	Yes <u>X</u>	No <u> </u>
Susan Arquette	Yes <u>X</u>	No <u> </u>
Edwin Dela Cruz	Yes <u>X</u>	No <u> </u>
Kristine Dela Cruz	Yes <u>X</u>	No <u> </u>
Eric Erdmann	Yes <u>X</u>	No <u> </u>
Shelby-Ann Erdmann	Yes <u>X</u>	No <u> </u>
Mitsuko Ho'okano	Yes <u>X</u>	No <u> </u>
Michael Kunselman	Yes <u>X</u>	No <u> </u>
Vivian Kunselman	Yes <u>X</u>	No <u> </u>
Giuseppe "Jo" Gerek-King	Yes <u>X</u>	No <u> </u>
James McGihon	Yes <u>X</u>	No <u> </u>
Dionis McGihon	Yes <u>X</u>	No <u> </u>
Dennis Okihara	Yes <u>X</u>	No <u> </u>
Michael Stephenson	Yes <u> </u>	No <u>X</u>
Gary Underwood	Yes <u>X</u>	No <u> </u>
Ann Marie Underwood	Yes <u>X</u>	No <u> </u>

If your answer to question 4(a) is "yes" as to any Plaintiff, then proceed to answer question 4(b), but only as to each Plaintiff for whom you answered "yes" to question 4(a). If your

answer to question 4(a) is "no" as to any Plaintiff, then state "N/A" after that Plaintiff's name in response to question 4(b).

b. did not give permission for the entry of dust from Pioneer's farming operation?

Answer:

Allen Arquette	Yes <u>X</u>	No <u> </u>
Susan Arquette	Yes <u>X</u>	No <u> </u>
Edwin Dela Cruz	Yes <u>X</u>	No <u> </u>
Kristine Dela Cruz	Yes <u>X</u>	No <u> </u>
Eric Erdmann	Yes <u>X</u>	No <u> </u>
Shelby-Ann Erdmann	Yes <u>X</u>	No <u> </u>
Mitsuko Ho'okano	Yes <u>X</u>	No <u> </u>
Michael Kunselman	Yes <u>X</u>	No <u> </u>
Vivian Kunselman	Yes <u>X</u>	No <u> </u>
Giuseppe "Jo" Gerek-King	Yes <u>X</u>	No <u> </u>
James McGihon	Yes <u>X</u>	No <u> </u>
Dionis McGihon	Yes <u>X</u>	No <u> </u>
Dennis Okihara	Yes <u>X</u>	No <u> </u>
Michael Stephenson	Yes <u> </u>	No <u>N/A</u>
Gary Underwood	Yes <u>X</u>	No <u> </u>
Ann Marie Underwood	Yes <u>X</u>	No <u> </u>

Please proceed to answer question 5.

5. With respect to the Nuisance claim, did each Plaintiff prove by a preponderance of the evidence that:

a. each Plaintiff owned, controlled or occupied his or her property?

Answer:

Allen Arquette	Yes <u>X</u>	No <u> </u>
Susan Arquette	Yes <u>X</u>	No <u> </u>
Edwin Dela Cruz	Yes <u>X</u>	No <u> </u>
Kristine Dela Cruz	Yes <u>X</u>	No <u> </u>
Eric Erdmann	Yes <u>X</u>	No <u> </u>
Shelby-Ann Erdmann	Yes <u>X</u>	No <u> </u>
Mitsuko Ho'okano	Yes <u>X</u>	No <u> </u>
Michael Kunselman	Yes <u>X</u>	No <u> </u>
Vivian Kunselman	Yes <u>X</u>	No <u> </u>
Giuseppe "Jo" Gerek-King	Yes <u>X</u>	No <u> </u>
James McGihon	Yes <u>X</u>	No <u> </u>
Dionis McGihon	Yes <u>X</u>	No <u> </u>
Dennis Okihara	Yes <u>X</u>	No <u> </u>
Michael Stephenson	Yes <u> </u>	No <u>X</u>
Gary Underwood	Yes <u>X</u>	No <u> </u>
Ann Marie Underwood	Yes <u>X</u>	No <u> </u>

If your answer to question 5(a) is "yes" as to any Plaintiff, then proceed to answer question 5(b), but only as to each Plaintiff for whom you answered "yes" to question 5(a). If your answer to question 5(a) is "no" as to any Plaintiff, then state "N/A" after that Plaintiff's name in response to questions 5(b)

and 5(c).

b. Pioneer's conduct was a legal cause in significantly interfering with each Plaintiff's use and enjoyment of his or her property?

Answer:

Allen Arquette	Yes <u>X</u>	No <u> </u>
Susan Arquette	Yes <u>X</u>	No <u> </u>
Edwin Dela Cruz	Yes <u>X</u>	No <u> </u>
Kristine Dela Cruz	Yes <u>X</u>	No <u> </u>
Eric Erdmann	Yes <u>X</u>	No <u> </u>
Shelby-Ann Erdmann	Yes <u>X</u>	No <u> </u>
Mitsuko Ho'okano	Yes <u>X</u>	No <u> </u>
Michael Kunselman	Yes <u>X</u>	No <u> </u>
Vivian Kunselman	Yes <u>X</u>	No <u> </u>
Giuseppe "Jo" Gerek-King	Yes <u>X</u>	No <u> </u>
James McGihon	Yes <u>X</u>	No <u> </u>
Dionis McGihon	Yes <u>X</u>	No <u> </u>
Dennis Okihara	Yes <u>X</u>	No <u> </u>
Michael Stephenson	Yes <u> </u>	No <u>N/A</u>
Gary Underwood	Yes <u>X</u>	No <u> </u>
Ann Marie Underwood	Yes <u>X</u>	No <u> </u>

If your answer to question 5(b) is "yes" as to any Plaintiff, then proceed to answer question 5(c) but only as to each Plaintiff for whom you answered "yes" to questions 5(b). If your

answer to question 5(b) is "no" as to any Plaintiff, then state "N/A" after that Plaintiff's name in response to question 5(c).

c. the seriousness of the harm to each Plaintiff outweighs the public benefit of Pioneer's farming operation.

Answer:

Allen Arquette	Yes <u>X</u>	No <u> </u>
Susan Arquette	Yes <u>X</u>	No <u> </u>
Edwin Dela Cruz	Yes <u>X</u>	No <u> </u>
Kristine Dela Cruz	Yes <u>X</u>	No <u> </u>
Eric Erdmann	Yes <u>X</u>	No <u> </u>
Shelby-Ann Erdmann	Yes <u>X</u>	No <u> </u>
Mitsuko Ho'okano	Yes <u>X</u>	No <u> </u>
Michael Kunselman	Yes <u>X</u>	No <u> </u>
Vivian Kunselman	Yes <u>X</u>	No <u> </u>
Giuseppe "Jo" Gerek-King	Yes <u>X</u>	No <u> </u>
James McGihon	Yes <u>X</u>	No <u> </u>
Dionis McGihon	Yes <u>X</u>	No <u> </u>
Dennis Okihara	Yes <u>X</u>	No <u> </u>
Michael Stephenson	Yes <u> </u>	No <u>X</u>
Gary Underwood	Yes <u>X</u>	No <u> </u>
Ann Marie Underwood	Yes <u>X</u>	No <u> </u>

If you answered "yes" to questions 5(a), 5(b) and 5(c) as to any Plaintiff, please proceed to answer question 6 with a dollar amount as to that Plaintiff.

6. For each Plaintiff, please state the dollar amount of reasonable damages that you award to each Plaintiff for property damage:

Answer:

Allen Arquette	\$ <u>16,351.50</u>
Susan Arquette	\$ <u>16,351.50</u>
Edwin Dela Cruz	\$ <u>25,532.</u>
Kristine Dela Cruz	\$ <u>25,532</u>
Eric Erdmann	\$ <u>13,384.50</u>
Shelby-Ann Erdmann	\$ <u>13,384.50</u>
Mitsuko Ho'okano	\$ <u>5,058.50</u>
Michael Kunselman	\$ <u>6,741</u>
Vivian Kunselman	\$ <u>6,741</u>
Giuseppe "Jo" Gerek-King	\$ <u>18,750</u>
James McGihon	\$ <u>4,515</u>
Dionis McGihon	\$ <u>4,515</u>
Dennis Okihara	\$ <u>16,932.50</u>
Michael Stephenson	\$ <u>Ø</u>
Gary Underwood	\$ <u>8,763</u>
Ann Marie Underwood	\$ <u>8,763</u>

For any Plaintiff for whom you have stated an amount, please proceed to answer question 7.

7. Please state the dollar amount of reasonable damages that you award to each Plaintiff for loss of use and enjoyment of property:

Answer:

Allen Arquette	\$ <u>18,575</u>
Susan Arquette	\$ <u>18,575</u>
Edwin Dela Cruz	\$ <u>18,575</u>
Kristine Dela Cruz	\$ <u>18,575</u>
Eric Erdmann	\$ <u>18,575</u>
Shelby-Ann Erdmann	\$ <u>18,575</u>
Mitsuko Ho'okano	\$ <u>37,150</u>
Michael Kunselman	\$ <u>18,575</u>
Vivian Kunselman	\$ <u>18,575</u>
Giuseppe "Jo" Gerek-King	\$ <u>37,150</u>
James McGihon	\$ <u>18,575</u>
Dionis McGihon	\$ <u>18,575</u>
Dennis Okihara	\$ <u>18,575</u>
Michael Stephenson	\$ <u>N/A</u>
Gary Underwood	\$ <u>18,575</u>
Ann Marie Underwood	\$ <u>18,575</u>

For each Plaintiff for whom you have stated a dollar amount, please proceed to answer question 8.

8. Did each Plaintiff mitigate his or her damages?

Answer:

Allen Arquette	Yes <u>X</u>	No <u> </u>
Susan Arquette	Yes <u>X</u>	No <u> </u>
Edwin Dela Cruz	Yes <u>X</u>	No <u> </u>
Kristine Dela Cruz	Yes <u>X</u>	No <u> </u>
Eric Erdmann	Yes <u>X</u>	No <u> </u>
Shelby-Ann Erdmann	Yes <u>X</u>	No <u> </u>
Mitsuko Ho'okano	Yes <u>X</u>	No <u> </u>
Michael Kunselman	Yes <u>X</u>	No <u> </u>
Vivian Kunselman	Yes <u>X</u>	No <u> </u>
Giuseppe "Jo" Gerek-King	Yes <u>X</u>	No <u> </u>
James McGihon	Yes <u>X</u>	No <u> </u>
Dionis McGihon	Yes <u>X</u>	No <u> </u>
Dennis Okihara	Yes <u>X</u>	No <u> </u>
Michael Stephenson	Yes <u> </u>	No <u>X</u>
Gary Underwood	Yes <u>X</u>	No <u> </u>
Ann Marie Underwood	Yes <u>X</u>	No <u> </u>

If you answered "no" as to any Plaintiff, please proceed to answer question 9 as to that Plaintiff. If you answered "yes" as to any Plaintiff, then state "N/A" as to that Plaintiff in your answers to question 9.

9. Please state the amount by which that Plaintiff did not mitigate his or her damages:

Allen Arquette	\$ <u>0</u>
Susan Arquette	\$ <u>0</u>
Edwin Dela Cruz	\$ <u>0</u>
Kristine Dela Cruz	\$ <u>0</u>
Eric Erdmann	\$ <u>0</u>
Shelby-Ann Erdmann	\$ <u>0</u>
Mitsuko Ho'okano	\$ <u>0</u>
Michael Kunselman	\$ <u>0</u>
Vivian Kunselman	\$ <u>0</u>
Giuseppe "Jo" Gerek-King	\$ <u>0</u>
James McGihon	\$ <u>0</u>
Dionis McGihon	\$ <u>0</u>
Dennis Okihara	\$ <u>0</u>
Michael Stephenson	\$ <u>N/A</u>
Gary Underwood	\$ <u>0</u>
Ann Marie Underwood	\$ <u>0</u>

Please proceed to answer question 10.

10. Was there another legal cause or causes in addition to Pioneer's farming operation that caused damages to any of the Plaintiffs?

Answer:

Yes _____ No X

Please proceed to answer question 11.

11. What percentage do you find is attributed to each legal cause of each Plaintiff's damages?

Allen and Susan Arquette

Answer:

Pioneer 100 %

Other legal cause(s) _____ %

100 %

TOTAL 100% (Total must equal 100%)

Edwin and Kristine Dela Cruz

Answer:

Pioneer 100 %

Other legal cause(s) _____ %

100 %

TOTAL 100% (Total must equal 100%)

Eric and Shelby-Ann Erdmann

Answer:

Pioneer 100 %

Other legal cause(s) _____ %

100 %

TOTAL 100% (Total must equal 100%)

Mitsuko Ho'okano

Pioneer 100 %

Other legal cause(s) _____ %

100 %

TOTAL 100% (Total must equal 100%)

Michael and Vivian Kunselman

Answer:

Pioneer 100 %

Other legal cause(s) _____ %

100 %

TOTAL 100% (Total must equal 100%)

Giuseppe "Jo" Gerek-King

Answer:

Pioneer 100 %

Other legal cause(s) _____ %

100 %

TOTAL 100% (Total must equal 100%)

James and Dionis McGihon

Answer:

Pioneer 100 %

Other legal cause(s) _____ %

100%

TOTAL 100% (Total must equal 100%)

Dennis Okihara

Answer:

Pioneer 100 %

Other legal cause(s) _____ %

100 %

TOTAL 100% (Total must equal 100%)

Michael Stephenson

Answer: N/A

Pioneer _____ %

Other legal cause(s) _____ %

TOTAL 100% (Total must equal 100%)

Gary and Ann Marie Underwood

Answer:

Pioneer 100 %

Other legal cause(s) _____ %

100%

TOTAL 100% (Total must equal 100%)

After completing all of your answers to the Special Verdict Form, the foreperson shall sign and date this form, inform the Court in writing that the jury has reached a verdict, and call the bailiff.

DATED at Honolulu, Hawai'i, MAY - 8 2015.

Signed: /S/ Foreperson

Dated: 05/08/2015, at Honolulu, Hawaii.

Signed: 
Foreperson