

Keep Fraudulent Science Out of Our Courtrooms

Paul Driessen

A California jury recently awarded \$289 million in damages (later reduced to \$78 million) to a former groundskeeper, who claimed the weed killer glyphosate caused his non-Hodgkin's lymphoma and Monsanto deliberately or negligently failed to warn him adequately about the chemical's cancer risks.

The case is on appeal, and a second trial will soon begin before U.S. District Court Judge Vince Chhabria, who himself has 620 more glyphosate cases on his docket. Overall, more than 9,300 additional cases are in the works against Monsanto and its new owner, Bayer – and personal injury mass-tort law firms are trolling for more alleged victims. “If you were ever exposed to glyphosate and now have cancer, you may be entitled to damages. Call us now,” their print, radio and television ads proclaim.

If the allegations are correct, compensatory and even punitive damage awards would be justified, though what might be “reasonable” damages is very much open to debate. However, reputable evidence strongly suggests that there is no connection between glyphosate use and lymphomas or other cancers.

In fact, the two cases and indeed the entire mega-litigation argument hinges on *one study*— and Judge Chhabria had to decide whether it would be admissible at the upcoming trial. Unfortunately, he ruled that plaintiff lawyers could introduce that study as evidence, despite the multiple deceptions surrounding it.

Many experts say the study is highly suspect, bordering on fraudulent, and should have been barred.

Glyphosate is the active ingredient in Roundup weed killer. Introduced in 1974 and licensed in 130 countries, it is the world's most widely used herbicide. Millions of homeowners use it regularly. Farmers employ it with “Roundup-Ready” corn, soybeans and other crops that are engineered to be resistant to it, so as to minimize weeding and tilling, preserve soil structure, and reduce erosion and water evaporation.

Farmers also like it, says cancer epidemiologist [Geoffrey Kabat](#), “because it is environmentally benign and has low toxicity.” In fact, he says, “the acute toxicity of glyphosate is lower than that of table salt.”

Multiple studies by respected organizations worldwide have concluded that glyphosate is safe and non-carcinogenic. Reviewers include the U.S. Environmental Protection Agency, European Food Safety Authority, European Chemicals Agency, Food and Agriculture Organization, Germany's Institute for Risk Assessment, Health Canada, Australia's Pesticides and Veterinary Medicines Authority, and others

The U.S. [Agricultural Health Study](#) conducted by the U.S. National Cancer Institute

followed the health of 54,000 farmers and commercial pesticide applicators for over two decades. It found no glyphosate-cancer link. The AHS is ongoing and is by far the most extensive such study ever done.

Only one agency, the France-based International Agency for Cancer Research (IARC), says otherwise. IARC does no research of its own. It simply reviews existing research and classifies chemicals as definitely, probably or possibly a cause of cancer in humans – often at extremely high doses that humans are extremely unlikely to encounter in the real world. Nor does the agency conduct “risk assessments” to determine exposure levels at which chemicals might actually have adverse effects on people.

In fact, some chemicals may cause cancer at extremely high doses, but be completely harmless at levels encountered in our daily lives. Other substances are harmful at high doses but beneficial or vital at very low doses; not having them in our bodies at certain low levels can cause severe health problems.

To date, IARC has studied over 900 substances – and found only one was “probably not carcinogenic.” Its antiquated approach lumps bacon, sausage, sunlight and plutonium together in its “definitely carcinogenic” category. Its list of “possible” carcinogens includes pickled vegetables and caffeic acid, which is found in coffee, tea, apples, blueberries, broccoli, kale, onions and other fruits and vegetables.

Glyphosate is listed as “probably” cancer-causing, along with creosote, inorganic lead compounds, malathion, many big-word chemicals, high-temperature frying, red meat and “very hot beverages”!

Groundskeeper Dewayne Johnson has said he somehow got “drenched” twice by glyphosate. But in each case he failed to take a shower or wash the chemical off, follow other standard or specific detoxification procedures, or seek immediate medical attention. Perhaps his legal team could make a plausible argument that getting drenched twice constituted the extremely high doses that IARC often cites as carcinogenic.

However, IARC’s secretive, sloppy, bungled – or even systematically and deliberately fraudulent – handling of its glyphosate review makes even that possibility little more than pseudo-evidence that should be barred from Johnson’s case, the pending Edwin Hardeman case, and all other glyphosate trials.

IARC supposedly based its 2015 glyphosate-causes-cancer finding on evidence from rodent studies. However, subsequent reviews by Dr. Kabat, National Cancer Institute statistician [Robert Tarone](#), investigative journalists [Kate Kelland](#) and [David Zaruk](#), and other investigators confirmed that the IARC process was tainted beyond repair from the very beginning.

IARC’s glyphosate review was proposed by U.S. government statistician Christopher Portier, who also helped design the study and served as special advisor to the IARC “working group” that evaluated the chemical. He did so while also being paid as an advisor to the anti-chemical Environmental Defense Fund. Then, just days after IARC issued its ruling, Portier signed a contract to receive \$160,000 for serving as a litigation consultant for two law firms that were preparing to sue Monsanto on behalf of “glyphosate cancer victims.” Portier and IARC tried to cover up these blatant conflicts of interest.

Tarone discovered that, during its deliberations, the IARC panel highlighted certain positive results from rodent studies it relied on – while ignoring contradictory results from the same studies. Overall, the data do not support the agency's claim that glyphosate is carcinogenic, he determined.



Kelland found ten instances where “a negative conclusion about glyphosate leading to tumors was either deleted or replaced with a neutral or positive one” between draft and final versions of the IARC report. Portier himself admitted the animal studies subgroup report concluding “limited evidence” of carcinogenicity somehow got upgraded to “sufficient evidence” for the final report.

Just as disturbing, the chair of IARC's glyphosate Working Group was also a senior investigator for the AHS pesticide and herbicide analysis. He knew the AHS results clearly exonerated glyphosate as a carcinogen. However, he did not inform the Group about those results, on the spurious ground that they had not yet been published. He later admitted that the study would likely have altered IARC's decision.

Kabat says “IARC had to cherry-pick the results from two mouse studies in order to make its tortured case that the animal evidence supported a conclusion of carcinogenicity.” IARC also did not have access to the 2017 National Cancer Institute study and apparently ignored the 2015 AHS analysis.

The 1993 U.S. Supreme Court decision in *Daubert v. Merrell Dow Pharmaceuticals* requires that, in cases like these glyphosate cancer claims, plaintiffs must prove to the presiding judge's satisfaction that the scientific evidence they intend to present is relevant and reliable. It must have been tested and/or peer-reviewed against accepted standards, must be accepted in the applicable scientific community, and must meet basic standards of honesty, integrity and credibility.

IARC's claim that glyphosate is carcinogenic is such an outlier, so beneath scientific norms, so tainted by conflicts of interest and misconduct, so unrelated to actual chemical risks – indeed so deceptive and borderline fraudulent – that it should never have been admitted as evidence in any glyphosate trial.

It is bad enough that these cancer trials are driven by emotional appeals to jurors' largely misplaced fears of chemicals and minimal knowledge of chemicals, chemical risks, medicine and cancer. It is far worse when our courts let these lawsuits also be driven by the scientific misconduct of one agency, IARC.

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