



CROPS NEWS

Lawyer behind major Roundup lawsuit jailed in extortion scheme

Timothy Litzenburg, who was part of the trial team that won a landmark verdict against Monsanto in the cancer case of Dewayne Johnson, was sentenced to two years in prison on Friday for attempting to extort \$200 million from an international chemical manufacturer. The Wall Street Journal reported in December that the target of the scheme was Nouryon, which makes a chemical used in Monsanto's Roundup weedkiller.

According to Reuters, U.S. District Judge Norman Moon also sentenced Litzenburg's law partner, Daniel Kincheloe, to one year for his lesser role in the scheme.

"Attorneys who cross the line and abuse their status as officers of the court will be held accountable for their actions," **said Brian Rabbitt**, acting assistant attorney general of the Justice Department's criminal division.

The U.S. Justice Department said that Litzenburg, 38, and Kincheloe, 41, admitted that in approximately October 2019, Litzenburg approached the chemical company (believed to be Nouryon but listed in official documents as "Company 1") and threatened to make public statements alleging that Company 1 had significant civil liability for manufacturing a purportedly harmful chemical used in Roundup, a household and agricultural product used to kill weeds. Litzenburg and Kincheloe also admitted that after describing the possibility of damaging lawsuits against Company 1, Litzenburg proposed that he and Kincheloe enter into a "consulting arrangement" with Company 1 that would create a purported conflict-of-interest

that would effectively stop them from representing their clients as plaintiffs in litigation against Company 1.

Thereafter, Litzenburg and Kincheloe admitted that Litzenburg, with Kincheloe's knowledge and agreement, demanded that Company 1 pay Litzenburg, Kincheloe, and others, a total of \$200 million in purported "consulting fees."

Litzenburg and Kincheloe said that after making their demand for \$200 million from Company 1, they registered a Virginia corporation for the purpose of receiving monies from Company 1, and that they agreed to split the funds from Company 1 among themselves and their associates, and to not distribute any of the monies Company 1 paid them as purported "consulting fees" to their existing clients. Litzenburg and Kincheloe admitted that after making their demand for \$200 million, Litzenburg threatened Company 1 that they and others would commence litigation that would become "an ongoing and exponentially growing problem for [Company 1], particularly when the media inevitably takes notice" and that such litigation would cost Company 1 and its publicly traded parent company "billions, setting aside the associated drop in stock price and reputation damage."

Litzenburg and Kincheloe also admitted pursuant to their guilty pleas that in an email written by Litzenburg, they threatened Company 1 that unless they were paid \$200 million, Company 1 would have "thousands of future plaintiffs against [Company 1]" and that "in the absence of a so-called 'global' or final deal with me, this will certainly balloon into an existential threat to [Company 1]."

There are indeed thousands of lawsuits that have been filed over Roundup and glyphosate-related products. After a handful of losses so far in the courtroom, which have stretched into the billions of dollars, Bayer has attempted to settle the remaining cases out of court.

But the Litzenburg and Kincheloe decision undoubtedly casts doubts on the ethics used in Litzenburg's flagship case against Monsanto, in which he helped represent Johnson, a groundskeeper who claimed that agricultural chemicals containing glyphosate contributed to his non-Hodgkin's lymphoma. **The original verdict** in 2018 awarded Johnson \$250 million punitive damages, \$33 million for his "pain and suffering," as well as \$6 million in actual damages. **The lynchpin in that case** was whether Monsanto wore blinders to any ill effects that glyphosate would have on people. A jury found that Monsanto, which has been purchased by Bayer, was liable.

At least part of the lawsuit was based on the International Agency for Research on Cancer's classification of glyphosate, the active ingredient in Roundup, as a

"probable" carcinogen. When IARC first made the decision, it **was immediately controversial**. But that **controversy has been growing** in the years since, especially because every single government agency or regulatory body that has reviewed it disagrees. The scientific data point to the fact that Glyphosate isn't a carcinogen.