

Hardeman v. Monsanto

REFERENCE :

3:16-cv-00525 // 19-16636 // 19-16708

COMPLAINT DATE :

February 12, 2016

STATUS :

Provisional judgment

PLACE OF JURISDICTION :

United States

PLAINTIFFS TYPES :

Landscapers

PLAINTIFFS NAMES :

Edwin Hardeman

DEFENDANTS :

Monsanto, John Does 1-50

LAWYERS :

Aimee H. Wagstaff, David J. Wool, Kathryn M. Forgie, Jennifer A. Moore, Lori E. Andrus

CASE NATURE :

Civil court

SPECIFICITIES :

Jury

PRODUCTS :

Herbicide, Glyphosate, Roundup, POEA

REQUESTS :

Compensatory damages, economic damages in the form of medical expenses, out of pocket expenses, lost earnings, punitive and/or exemplary damages for the wanton, willful, fraudulent, and reckless acts of the defendants, Pre and Post-judgment interest, plaintiff reasonable attorneys' fees, the costs of these proceedings.

NAME OF THE COURT :

Supreme Court, United States

JURISDICTION LEVEL :

Court of Cassation

DECISION DATE :

May 14, 2021

DECISION NATURE :

Positive

DECISION CONTENT :

The jury found that that Roundup's design was defective, lacked sufficient cancer warnings and its manufacturer, agribusiness giant Monsanto, was negligent. It awarded Hardeman \$5.3 million in compensation and an additional \$75 million in punitive damages, later reduced to \$ 25 million. This is confirmed in appeal.

LEGAL BASIS :

National law

COURT RULING :

Link to the ruling (<https://usrtk.org/wp-content/uploads/2021/05/9th-circuit-appeals-court-ruling-on-Hardeman-v-Monsanto.pdf>)

SUMMARY :

Hardeman has alleged that his use of Roundup caused him to develop non-Hodgkin lymphoma (NHL). His case is considered a "bellwether" trial for hundreds of similar cases joined in Roundup Products Liability Litigation (MDL) 3:16-md-02741-VC. The judge decided that the trial should take place in 2 phases. It will first have to be demonstrated that Roundup caused Hardeman's disease, and only if the answer is yes, it will be possible to judge whether Monsanto has acted with malice and/or withheld information. The jury, composed of 6 persons, must be unanimous for Hardeman to win his case. The hearings began on Feb. 25, and ended on March 12. After 5 days of deliberation, the jurors unanimously answered yes to the question: Did Mr. Hardeman prove by a preponderance of the evidence that his exposure to Roundup was a substantial factor in causing his non-Hodgkin's lymphoma? The 2nd phase of the trial, with the same jury, focuses on Monsanto's liability and damages and begins on 3/20/2019. On 3/27/2019, the jury awarded Hardeman more than \$5 million in compensation and an additional \$75 million in punitive damages. On 7/15/2019, the judge reduces the punitive damages from \$75 million to \$20 million to comply with the Supreme Court's constitutional standards, but dismisses Monsanto's request for a new trial for compensatory damages. On 12/13/2019, Bayer, now owner of Monsanto, lodges an appeal (Case: 19-16636) claiming that "serious errors" were made in the case and it should have never made it to trial. On 12/20/2019, the US government files an amicus brief in support of Monsanto saying that glyphosate is not a carcinogen and as a result a warning on the label was not required as California state law demands. On May 14, 2021, the US Court of Appeals for the Ninth Circuit affirmed the District Court of the Northern District of California's judgment in favor of Edwin Hardeman in his action alleging that Monsanto's pesticide, Roundup, caused his non-Hodgkin's lymphoma. On August 16, 2021, Monsanto/Bayer files a petition with the U.S. Supreme Court to reverse the appeals court verdict. It presents 2 questions: 1- Whether FIFRA preempts a state-law failure to warn claim where the warning cannot be added to a product without EPA approval and EPA has repeatedly concluded that the warning is not appropriate. 2- Whether the Ninth Circuit's standard for admitting expert testimony is inconsistent with this Court's precedent and Federal Rule of Evidence 702.

SCIENTIFIC REFERENCES :

Glyphosate – Monographs (<http://monographs.iarc.fr/ENG/Monographs/vol112/mono112-10.pdf>)

RELATED LINKS :

Hardeman v. Monsanto, 1st amended complaint, Feb. 12, 2016 (<https://usrtk.org/wp-content/uploads/2018/12/Edward-Hardeman-1st-amended-complaint-Feb.-2016.pdf>)

Roundup Products Liability Litigation (MDL) (https://justicepesticides.org/en/juridic_case/roundup-products-liability-litigation-mdl/)

Pre trial order on bifurcation for the 3 bellwether cases (<https://usrtk.org/wp-content/uploads/bsk-pdf-manager/2019/01/Pretrial-order-on-bifurcation.pdf>)

Monsanto: judge threatens to 'shut down' cancer patient's lawyer

(https://www.theguardian.com/business/2019/feb/25/monsanto-federal-trial-roundup-cancer?CMP=share_btn_tw)

Judge in Monsanto Roundup trial is already hindering testimony (<https://gmwatch.org/en/news/latest-news/18781>)

Lawyer's response to show cause (<https://usrtk.org/wp-content/uploads/bsk-pdf-manager/2019/02/response-to-show-cause.pdf>)

Order sanctioning Mr. Hardeman's counsel, Feb. 26, 2019

(https://www.dropbox.com/s/dfd0ida6x9ok9kr/Show%20Cause%20Order_Hardeman%20v%20Monsanto.pdf?dl=0)

Judge Sanctions Attorney in Second Day of Roundup Trial (<https://www.courthousenews.com/judge-sanctions-attorney-in-second-day-of-roundup-trial/>)

Roundup Cancer Trial Close to Mistrial After Third Juror Dismissed (<https://www.courthousenews.com/roundup-cancer->

trial-close-to-mistrial-after-third-juror-dismissed/)

Concerns over Judge's Jury Instructions (https://usrtk.org/pesticides/monsanto-roundup-trial-tracker/?mc_cid=6d2eb13601&mc_eid=f6b7498072)

Federal Court Documents (including transcripts) on USRTK website (<https://usrtk.org/monsanto-papers/federal-court/#edward-hardeman-v-monsanto>)

Transcript of Proceedings, with verdict, March 19, 2019 (<https://usrtk.org/wp-content/uploads/bsk-pdf-manager/2019/03/Trial-Transcript-The-Verdict-March-19-2019.pdf>)

Verdict form, phase 1 (<https://usrtk.org/wp-content/uploads/bsk-pdf-manager/2019/03/Hardeman-Jury-Verdict-Phase-1.pdf>)

Verdict form (<https://www.baumhedlundlaw.com/documents/pdf/monsanto-documents/hardeman/hardeman-jury-verdict-form-phase-2.pdf>)

Monsanto: Roundup substantial factor in man's cancer, jury finds in key verdict

(<https://www.theguardian.com/business/2019/mar/19/monsanto-trial-roundup-verdict-edwin-hardeman-cancer>)

Monsanto Weedkiller Roundup Was 'Substantial Factor' in Causing Man's Cancer, Jury Says

(<https://www.nytimes.com/2019/03/19/business/monsanto-roundup-cancer.html>)

Jury finding upends Bayer's Roundup defense strategy: experts (<https://www.reuters.com/article/us-bayer-glyphosate-lawsuit-strategy-ana-idUSKCN1R12RU>)

Verdict Reached - Trial Transcript March 27, 2019 (<https://usrtk.org/wp-content/uploads/bsk-pdf-manager/2019/03/Verdict-Reached-Trial-Transcript-March-27-2019.pdf>)

Man awarded \$80M in lawsuit claiming Roundup causes cancer

(<https://www.apnews.com/cade0124436445d4b20dd2b109744c3d>)

Sanctions ordered against attorney Jennifer Moore (<https://usrtk.org/wp-content/uploads/bsk-pdf-manager/2019/05/Sanctions-ordered-against-attorney-Jennifer-Moore.pdf>)

Judge will reconsider \$80 million damage award in Monsanto cancer case

(<https://www.sfchronicle.com/bayarea/article/Judge-will-reconsider-80-million-damage-award-in-14068253.php>)

Judge ruling on Hardeman's damages, July 15, 2019 (<https://usrtk.org/wp-content/uploads/bsk-pdf-manager/2019/07/Judge-ruling-on-Hardeman-damages.pdf>)

Bayer appeals \$25 million Roundup cancer verdict in US (<https://www.dw.com/en/bayer-appeals-25-million-roundup-cancer-verdict-in-us/a-51701516>)

Appeal by Bayer on Dec. 13, 2019 (<https://usrtk.org/wp-content/uploads/bsk-pdf-manager/2019/12/Hardeman-appeal-by-Monsanto.pdf>)

Brief of the United States as Amicus Curiae in support of Monsanto (<http://www.glyphosatelitigationfacts.com/main/wp-content/uploads/2019/12/32.-United-States-Amicus.pdf>)

U.S. government doubles down on support of Bayer, Roundup (<https://www.bizjournals.com/stlouis/news/2019/12/23/u-s-government-doubles-down-on-support-of-bayer.html>)

Another loss for Bayer over Roundup cancer claims as appeals court shoots down preemption argument

(https://usrtk.org/monsanto-roundup-trial-tracker/another-loss-for-bayer-over-roundup-cancer-claims-as-appellate-court-shoots-down-preemption-argument/?mc_cid=853b7511a2&mc_eid=ff8c3a64ef)

Federal appeals court affirms \$25 million judgment in Bayer's Roundup cancer case

(<https://www.jurist.org/news/2021/05/federal-appeals-court-affirms-25-million-judgment-in-bayers-roundup-cancer-case/#>)

Bayer Suffers Second Appellate Defeat With Ninth Circuit Ruling in Roundup Cancer Case

(<https://www.courthousenews.com/bayer-suffers-second-appellate-defeat-with-ninth-circuit-ruling-in-roundup-cancer-case/>)

Procès du Roundup : une condamnation de Monsanto confirmée en appel en Californie

(<https://www.leparisien.fr/environnement/proces-du-roundup-une-condamnation-de-monsanto-confirnee-en-appel-en-californie-14-05-2021-MHVTG46JLJFWHAE5IJG5AI3RBM.php>)

Petition for a writ of certiorari to the United States Court of Appeals for the Ninth Circuit, Aug. 16, 2021

(<https://usrtk.org/wp-content/uploads/2021/08/Bayer-petitions-to-Sup-Crt.pdf>)

Bayer seeks U.S. Supreme Court review of Roundup trial loss (<https://usrtk.org/monsanto-roundup-trial-tracker/bayer-seeks-u-s-supreme-court-review-of-roundup-trial-loss/>)

Bayer takes legal battle over Roundup cancer claims to U.S. Supreme Court (<https://www.reuters.com/article/us-bayer-glyphosate-supremecourt/bayer-takes-legal-battle-over-glyphosate-cancer-claims-to-us-supreme-court-idUSKBN2FH1MY>)

Opinion: Bayer could have last laugh over glyphosate court cases (<https://investigatamidwest.org/2022/02/15/opinion-bayer-could-have-last-laugh-over-glyphosate-court-cases/>)

California regulators changing language on glyphosate and cancer risk ([https://careygillam.substack.com/p/california-regulators-changing-language?](https://careygillam.substack.com/p/california-regulators-changing-language?token=eyJ1c2VyX2lkIjo4NDQ5MTY5OCwicG9zdF9pZCI6NTlyMjEwMTQsIl8iOiJnTTNZVilslmlhdCI6MTY1MDAyMDM5MywiZXhwIjoxNjUwMDIzOTkzLCJpc3MiOiJwdWltNzU0NzU4Iiwic3ViljoicG9zdC1yZWVjdGlubiJ9.Za3iYprf8_PNKgkWkg0sHWh6-GixMr4148UEzOS0zNA&s=r)

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