

[Products Liability Law Daily Wrap Up, TOP STORY—JURY VERDICTS —N.D. Cal.: Monsanto hit with \\$80M verdict in federal case over Roundup®, \(Mar. 28, 2019\)](#)

Products Liability Law Daily Wrap Up

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By Georgia D. Koutouzos, J.D.

Cancer patient proved his negligence and product liability claims related to the glyphosate-based herbicide.

A California federal jury awarded over \$5 million in compensatory damages and \$75 million in punitive damages to a man who developed Non-Hodgkin's Lymphoma from long-term use of Monsanto Co.'s Roundup® herbicide products. The ailing man proved by a preponderance of evidence his negligence, design defect, and failure to warn claims against the agrochemical manufacturer, the jury concluded ([Hardeman v. Monsanto Co.](#), March 27, 2019, Chhabria, V.).

A man who allegedly developed Non-Hodgkin's Lymphoma (NHL) as the result of having been exposed to Monsanto's glyphosate-containing Roundup® herbicides over a period of decades filed suit in California federal court against the multinational agricultural biotechnology company in February 2016. Asserting claims against Monsanto for negligence and strict products liability—design defect and failure to warn, as well as breach of implied warranties, the ailing man's [complaint](#) demanded a jury trial and sought compensatory damages, economic damages, and punitive damages, plus pre- and post-judgment interest, attorney fees, and costs.

Later that same year, the court ruled that the man's failure to warn claim based on Roundup's labeling was not preempted by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) because California's labeling requirements are consistent with FIFRA requirements [see *Products Liability Law Daily's* April 11, 2016 [analysis](#)]. The court further observed that California's labeling requirements could not be construed more broadly than FIFRA's because California law, unlike federal law, allows a manufacturer to escape liability when a warning would be unreasonable, and the plaintiff explicitly had based his failure to warn claim on the alleged FIFRA violation. The court also held that the strict liability—design defect claim was not prohibited by either comment j or comment k to section 402A of the Restatement (Second) of Torts.

The case ultimately was tried to a jury, which determined that the ailing man proved by a preponderance of evidence his claim that Roundup's design was defective and that the product lacked sufficient warnings of the risk of NHL. He also proved that Monsanto was negligent by not using reasonable care to warn about Roundup's NHL risk and that he was entitled to punitive damages.

As such, the jury awarded him \$200,967.10 for past economic loss, \$3,066,667 for past non-economic loss, \$2,000,000 for future economic loss, and \$75,000,000 in punitive damages.

The case is No. [16-cv-00525-VC](#).

Attorneys: Aimee Wagstaff (Andrus Wagstaff PC) for Edwin Hardeman. Richard Alden Clark (Parker Milliken Clark O'Hara and Samuelian) and Eric Gordon Lasker (Hollingsworth LLP) for Monsanto Co.

Companies: Monsanto Co.

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