

[Products Liability Law Daily Wrap Up, TOP STORY—JURY VERDICTS— Cal. Super.: Jury awards \\$2.055B to couple in third Roundup® trial, \(May 14, 2019\)](#)

Products Liability Law Daily Wrap Up

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By Kathleen Bianco, J.D.

California couple proved their negligence and product liability claims related to the glyphosate-based weed killer. A California jury awarded \$55 million in compensatory damages and \$2 billion in punitive damages to a husband and wife who each developed Non-Hodgkin's Lymphoma (NHL) from long-term use of Monsanto Co.'s Roundup® weed killer products. In reaching this conclusion, the jury determined that the couple proved by a preponderance of evidence their design defect, failure to warn, and negligence claims against the agrochemical manufacturer. This is the third Roundup trial loss for Monsanto, which was acquired by Bayer in 2018 ([*Pilliod v. Monsanto Co.*](#), May 13, 2019, Smith, W.).

Over the course of more than 30 years, the couple contended that they used the manufacturer's Roundup weed killer together to landscape their home and other properties. In 2011, the husband was diagnosed with systemic NHL, which spread to his pelvis and spine. In 2015, the wife was diagnosed with NHL brain cancer. The couple filed suit against the manufacturer of the Roundup products, alleging that their cancers were caused by their exposure to Roundup and its active ingredient, glyphosate. The suit further accused the manufacturer of fraudulently representing that Roundup is safe despite extensive scientific evidence linking exposure to NHL.

Verdict. After a seven-week trial, the jury concluded that Roundup weed killer was the cause of both the husband's and the wife's cancers and that the manufacturer had failed to warn consumers that exposure to the product causes NHL. Additionally, after hearing testimony and viewing internal company documents, the jury found that the manufacturer was liable for punitive damages of \$2 billion because the company had known of the potential health hazards of its glyphosate-based products and had intentionally concealed or recklessly failed to disclose those hazards despite the designation of glyphosate as a probable carcinogen by the International Agency for Research on Cancer, according to a [press release](#) on the verdict by [Baum, Hedlund, Aristei & Goldman](#), one of the law firms representing the plaintiffs. The law firm notes that 13,400 Roundup cases are still pending in state and federal courts.

The jury's answers to the questions on the verdict forms for both [husband](#) and [wife](#) were the same. Specifically, on the questions relating to their design defect claim, the jury found that Roundup failed to perform as safely as an ordinary consumer would have expected when used or misused in an intended or reasonably foreseeable way, and that the product's design was a substantial factor in causing harm to the husband and wife. On the strict liability failure to warn claim, the jury determined: (1) that Roundup had potential risks that were known or knowable in light of the scientific and medical knowledge that was generally accepted in the scientific community at the time of its manufacture, distribution or sale; (2) that the product's potential risks presented a substantial danger to persons when used in accordance with widespread and commonly recognized practice; (3) that ordinary consumers would have recognized the potential risks; that Monsanto failed to adequately warn of the potential risks; and that the lack of sufficient warnings was a substantial factor in causing harm to the wife and husband.

On the negligence claim, the jury answered yes to the questions of whether Monsanto was negligent in designing, manufacturing, or supplying Roundup, and whether Monsanto's negligence was a substantial factor in causing harm to both the husband and wife. Next, on the negligent failure to warn claim, the jury determined that Monsanto knew or should reasonably have known that Roundup was dangerous or was likely to be dangerous

when used in accordance with widespread and commonly recognized practice. On the same claim, the jury found that Monsanto knew or should reasonably have known that users would not realize the danger; that Monsanto failed to adequately warn of the danger or instruct on the safe use of Roundup; that a reasonable manufacturer, distributor, or seller under the same or similar circumstances would have warned of the danger or instructed on the safe use of Roundup; and that Monsanto's failure to warn was a substantial factor in causing harm to both the wife and husband.

Damages broken down. Compensatory damages for the husband included \$47,296.01 for past economic loss (stipulated); \$8 million for past noneconomic loss; and \$10 million for future noneconomic loss. Compensatory damages for the wife included \$201,166.76 for past economic loss (stipulated); \$2,957,710 for future economic loss; \$8 million for past noneconomic loss; and \$26 million for future noneconomic loss. The jury awarded punitive damages of \$1 billion for each plaintiff.

The case is No. [RG1786702](#); JCCP No. 4953.

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Companies: Monsanto Co.

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