

The New York Times

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

By **Mihir Zaveri**

March 19, 2019

A federal jury found Tuesday that Monsanto's popular weedkiller Roundup was a "substantial factor" in causing a California man's cancer, dealing a significant blow to the company as it aggressively defends its products against thousands of similar claims.

The six-member jury delivered the unanimous verdict in the United States District Court in San Francisco, months after a groundskeeper who said Roundup caused his cancer was awarded about \$80 million in a separate case in California.

Tuesday's verdict concluded the first of two phases in the federal case about the possible health risks of Roundup and whether Monsanto misled the man, Edwin Hardeman, about those risks.

Mr. Hardeman used Roundup to control weeds and poison oak on his property for 26 years. He was diagnosed with non-Hodgkin's lymphoma in 2015.

The second phase of the case, which begins Wednesday, will focus on whether Monsanto, which was acquired by Bayer AG last year, should be held liable for partly causing Mr. Hardeman's cancer, said his lawyer, Jennifer Moore. Ms. Moore said lawyers would seek to prove that Monsanto manipulated public opinion and science to play down Roundup's health risks.

Lawyers will argue that Monsanto knew or should have known that Roundup causes cancer, Ms. Moore said in an interview Tuesday. Mr. Hardeman's team will ask that the jury have the company pay his medical bills and an undetermined amount of damages, she added.

"We feel confident based on the evidence that a jury, when presented with all of the evidence, will see that Monsanto has committed 40 years of corporate malfeasance," Ms. Moore said.

Bayer said in a statement Tuesday that it was disappointed in the jury's verdict and that "the evidence in phase two will show that Monsanto's conduct has been appropriate and the company should not be liable for Mr. Hardeman's cancer."

"We have great sympathy for Mr. Hardeman and his family, but an extensive body of science supports the conclusion that Roundup was not the cause of his cancer," Bayer said in the statement. "Bayer stands behind these products and will vigorously defend them."

The verdict in the closely watched case is a milestone in the contentious public debate over Roundup, which was Monsanto's flagship product. Its active ingredient, glyphosate, is the world's most widely used weedkiller.

Ms. Moore said the verdict would likely influence the thousands of other similar cases — about 11,200 people had sued Monsanto over Roundup as of February, according to Bayer.



Activists gathered Thursday outside the headquarters of Bayer AG, which acquired Monsanto last year, to protest what they say are the negative health and environmental impacts of the weed killer Roundup. Francois Mori/Associated Press

Bayer, on the other hand, said the jury's decision Tuesday "has no impact on future cases and trials because each one has its own factual and legal circumstances."

Edward K. Cheng, a Vanderbilt University law professor, said that legally, Tuesday's finding cannot be used as precedent in other Roundup cases. But practically, he said, Tuesday's verdict and the verdict from last year, in which juries have found a link between Roundup and cancer, "have some import."

"What ends up happening is these start to be markers," he said. "I would expect that Monsanto is going to start thinking about 'How much risk do we face here?' if one jury after another is going to say 'Yes.'"

Bayer has consistently defended the safety of Roundup and glyphosate, and industry-funded research has long found the herbicide to be relatively safe. Regulators have mostly agreed.

In December 2017, the Environmental Protection Agency issued a draft human health risk assessment that said glyphosate was most likely not carcinogenic to humans.

Central to the criticism of Roundup, however, is a decision by the World Health Organization's International Agency for Research on Cancer in 2015 to declare glyphosate a probable carcinogen.

That spurred Mr. Hardeman to file a lawsuit in February 2016, and prompted California to declare glyphosate a chemical that is known to cause cancer.

In August, a California jury found that Monsanto had failed to warn a school groundskeeper of the cancer risks posed by Roundup, which he used as part of his job as a pest control manager. Monsanto was ordered to pay \$289 million in damages.

In October, a judge reduced that total to about \$80 million, saying the jury's award was too high. Monsanto is appealing that verdict, a spokesman said.

Mr. Hardeman's case was the first federal case to go to trial, Ms. Moore said. She said the legal team presented expert testimony and research that Roundup causes mutations in human cells and that human populations that are exposed to Roundup are more likely to develop non-Hodgkin's lymphoma.

Documents unsealed in 2017 in Mr. Hardeman's case suggested that Monsanto had ghostwritten research that was later attributed to academics. The documents indicated that a senior official at the E.P.A. had worked to quash a federal review of glyphosate.

The documents also revealed that there was some disagreement within the E.P.A. over its own risk assessment.

Concepción de León contributed reporting.

