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BREAKING: Monsanto Owes \$289M In Landmark Roundup Cancer Trial

By **Dorothy Atkins**

Law360, San Francisco (August 10, 2018, 6:14 PM EDT) -- A California jury held Friday that Monsanto's Roundup and Ranger Pro herbicides contributed to a school groundskeeper's lymphoma and slapped the company with a combined \$289 million in compensatory and punitive damages in a landmark suit against the agricultural giant, which has denied links between its herbicides and cancer for decades.

After three days of deliberating, a unanimous 12-member jury found that Monsanto's herbicides were unsafe and were a substantial factor in causing harm to plaintiff DeWayne "Lee" Johnson. The jury also found that Monsanto had failed to adequately warn customers of the risks associated with its Roundup and stronger Ranger Pro products, and that the company acted with malice or oppression.

Jurors awarded Johnson \$39.25 million in compensatory damages and \$250 million in punitive damages. The award includes \$37 million in noneconomic damages — a million for every year of the 46-year-old's life that he will have lost to cancer.

The verdict marks an end to a months-long trial in San Francisco that is the first of its kind Monsanto has defended. Johnson sued Monsanto in 2016, claiming the company has known of the health risks associated with its herbicides since at least the 1990s, when studies began showing a correlation between the products and lymphoma. But it still did not put a warning label on its products and as a result, Johnson claims he thought they were safe to use in his job as a groundskeeper at a Bay Area school district. After an accident in 2013 left him drenched in the herbicide, he was diagnosed with non-Hodgkin lymphoma.

During trial, Johnson **testified** that as a groundskeeper he sprayed 150 gallons of Ranger Pro per day on five school campuses, including football and baseball fields, 20 to 30 days a year. Even after he was diagnosed with the disease, he said he continued to spray the herbicides, because he was told during an optional pesticide certification course that Ranger Pro was "safe enough to drink" and he didn't want to lose his job. After a second accident left his back covered in the product, he repeatedly called Monsanto to find out if the herbicides were detrimental to his health, but the company never returned his calls, he said.

Over the past month, experts hired by Johnson's attorneys — including an **oncologist**, a **toxicologist** and National Institutes of Health **scientist** — took the stand, detailing the scientific links between the herbicides' active ingredient, glyphosate, and lymphoma, which were laid out in a 2015 study conducted by the World Health Organization's International Agency for Research on Cancer.

An agricultural economist also **testified** that since 2001, glyphosate has become one of the top used herbicides worldwide, tripling from about 90 million pounds in 2001 to over 290 million pounds in 2012, and federal regulators are “still playing catch up” in looking at the public health impacts of the surge in use.

Monsanto responded by calling its own experts to dispute the IARC's findings, including an epidemiologist who **testified** that multiple epidemiological studies over the past two decades show no causal link between glyphosate and cancer.

The trial **culminated Tuesday** in closing arguments that drew a number of spectators to the small courtroom, including a state judge, attorney Robert Kennedy Jr. of Morgan & Morgan PA and his wife, actress Cheryl Hines. Singer-songwriter Neil Young and actress Daryl Hannah also attended the trial in support of Johnson, according to the Organic Consumers Association, a nonprofit consumer advocacy group. During closings, counsel for both sides took turns tearing apart the credibility of their opponents' experts, evidence and the timelines of Johnson's cancer progression, as Johnson watched silently.

On Friday, the jury sided with Johnson, finding Monsanto liable for a design defect claim, a failure to warn claim and a negligent failure to warn claim. It awarded \$2.25 million in economic loss, and \$37 million in noneconomic damages, but less than the \$373 million Johnson originally sought in punitive damages.

Monsanto's weed killer is at the center of hundreds of other lawsuits heading toward trial in multidistrict litigation consolidated before a California federal court. **Last month**, U.S. District Judge Vince Chhabria allowed three of the plaintiffs' experts to testify in the case, concluding their opinions, “while shaky, are admissible.”

Johnson is represented by Brent Wisner of Baum Hedlund Aristei & Goldman PC and David Dickens of The Miller Firm LLC.

Monsanto is represented by George Lombardi and James M. Hilmert of Winston & Strawn LLP, Sandra Edwards of Farella Braun & Martel LLP and Kirby Griffis of Hollingsworth LLP.

The state case is Johnson v. Monsanto Co. et al., case number CGC16550128, in the Superior Court of the State of California, County of San Francisco. The MDL is In re: Roundup Products Liability Litigation, case number 3:16-md-02741, in the U.S. District Court for the Northern District of California.

--Additional reporting by Cara Bayles and Bonnie Eslinger. Editing by Emily Kokoll.