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 7 **MONSANTO COMPANY**

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

10 IN RE: ROUNDUP PRODUCTS LIABILITY LITIGATION	MDL No. 2741 Case No. 3:16-md-02741-VC
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12 This document relates to: 13 <i>Anthony Pearce v. Monsanto Co.</i> , Case No. 3:17-cv-05480-VC

15 **MONSANTO COMPANY’S ANSWER TO PLAINTIFF’S COMPLAINT**

16 Pursuant to Rule 12 of the Federal Rules of Civil Procedure, Defendant Monsanto
 17 Company (“Monsanto”), by and through its counsel, respectfully responds by generally denying
 18 all allegations contained in plaintiff Anthony Pearce’s Complaint and Jury Demand (“the
 19 Complaint”), except as set forth below. As defined in the Complaint and as used in this Answer,
 20 Monsanto refers to Monsanto Company, a United States based company incorporated in
 21 Delaware, and not to other Monsanto-affiliated companies. Silence as to any allegations shall
 22 constitute a denial.

23 1. Monsanto admits that plaintiff purports to bring an action for damages allegedly
 24 related to exposure to Roundup[®]-branded products but denies any liability to plaintiff. Monsanto
 25 denies the remaining allegations in paragraph 1.

26 2. Monsanto denies the allegations in paragraph 2.

27 3. Monsanto denies the allegations in paragraph 3.

1 4. The allegations in paragraph 4 set forth conclusions of law for which no response
2 is required. To the extent that a response is deemed required, Monsanto admits the allegations in
3 paragraph 4 based upon the allegations in plaintiff's Complaint.

4 5. Monsanto admits the allegations in paragraph 5.

5 6. The allegations in paragraph 6 set forth conclusions of law for which no response
6 is required.

7 7. The allegations in the first sentence of paragraph 7 set forth conclusions of law
8 for which no response is required. Monsanto admits the allegations in the second sentence of
9 paragraph 7. In response to the allegations in the final sentence of paragraph 7, Monsanto denies
10 certain events giving rise to plaintiff's claims and Monsanto lacks information or knowledge
11 sufficient to form a belief as to the truth of the allegations regarding where certain other events
12 giving rise to plaintiff's claims occurred and therefore denies those allegations.

13 8. Monsanto denies that exposure to Roundup[®]-branded products did or could have
14 caused plaintiff's alleged non-Hodgkin's lymphoma. Monsanto lacks information or knowledge
15 sufficient to form a belief as to the truth of the remaining allegations in paragraph 8 and therefore
16 denies those allegations.

17 9. The allegations in paragraph 9 comprise attorney characterizations and are
18 accordingly denied. Monsanto states that the Roundup[®]-branded products identified by plaintiff
19 have a variety of separate and distinct uses and formulations.

20 10. Monsanto admits the allegations in paragraph 10.

21 11. The allegations in paragraph 11 comprise attorney characterizations and are
22 accordingly denied.

23 12. In response to the allegations in paragraph 12, Monsanto admits that it sells
24 Roundup[®]-branded products in Texas and Missouri.

25 13. Monsanto lacks information or knowledge sufficient to form a belief as to the
26 truth of the allegations in paragraph 13 and therefore denies those allegations.

27 14. The allegations in paragraph 14 are vague and conclusory and comprise attorney
28 characterizations and are accordingly denied.

1 15. The allegations in paragraph 15 are vague and conclusory and comprise attorney
2 characterizations and are accordingly denied.

3 16. Monsanto admits the allegations in paragraph 16.

4 17. Monsanto admits that it is authorized to do business in Missouri. The remaining
5 allegations in paragraph 17 are vague and conclusory and comprise attorney characterizations
6 and are accordingly denied.

7 18. The allegations in paragraph 18 set forth conclusions of law for which no
8 response is required.

9 19. Monsanto denies the allegations in paragraph 19.

10 20. Monsanto admits that it has designed, researched, manufactured, tested,
11 advertised, promoted, marketed, sold, and distributed Roundup[®]-branded products. The
12 remaining allegations in paragraph 20 set forth conclusions of law for which no response is
13 required.

14 21. Monsanto admits that it is an agricultural biotechnology corporation with a
15 principal place of business in St. Louis, Missouri. Monsanto admits that it and its affiliated
16 companies have operations and offices in countries around the world. Monsanto states that the
17 remaining allegations in paragraph 21 are vague and that it accordingly lacks information or
18 knowledge sufficient to form a belief as to the truth of the remaining allegations and therefore
19 denies those allegations.

20 22. Monsanto admits the allegations in paragraph 22.

21 23. Monsanto admits the allegations in paragraph 23.

22 24. Monsanto admits that glyphosate is an herbicide that is used to kill invasive plants
23 and weeds. Monsanto states that the remaining allegations in paragraph 24 are vague and
24 ambiguous and that it lacks information or knowledge sufficient to form a belief as to the truth of
25 the remaining allegations and therefore denies those allegations.

26 25. Monsanto admits that glyphosate's mode of action is targeting EPSP synthase.
27 The remaining allegations in paragraph 25 comprise attorney characterizations and are
28 accordingly denied.

1 26. Monsanto admits the allegations in paragraph 26.

2 27. Monsanto generally admits the allegations in paragraph 27, but denies the
3 allegations in paragraph 27 to the extent that they suggest that glyphosate is present in any plants
4 at anything other than *de minimis* amounts well within regulatory safety levels, as determined by
5 the United States Environmental Protection Agency (“EPA”).

6 28. Monsanto lacks information or knowledge sufficient to form a belief as to the
7 truth of the allegations in paragraph 28 and therefore denies those allegations.

8 29. Monsanto admits that it is the leading producer of seeds that contain the Roundup
9 Ready[®] trait and that use of crops with the Roundup Ready[®] trait substantially improve a
10 farmer’s ability to control weeds. Monsanto lacks information or knowledge sufficient to form a
11 belief as to the accuracy of the specific numbers and statistics provided in the remaining
12 sentences of paragraph 29 and therefore denies those allegations. Monsanto denies the
13 remaining allegations in paragraph 29.

14 30. Monsanto admits the allegations in paragraph 30.

15 31. Monsanto admits that Roundup[®]-branded products have been used by farmers for
16 approximately 40 years. Monsanto denies that Roundup[®]-branded products have carcinogenic
17 properties and denies the remaining allegations in paragraph 31.

18 32. The allegations in paragraph 32 set forth conclusions of law for which no
19 response is required. To the extent that a response is deemed required, Monsanto admits the
20 allegations in paragraph 32.

21 33. In response to the allegations in paragraph 33, Monsanto admits that EPA requires
22 registrants of herbicides to submit extensive data in support of the human health and
23 environmental safety of their products and further admits that EPA will not register or approve
24 the labeling of herbicides that do not satisfy the requirements set forth in the Federal Insecticide,
25 Fungicide, and Rodenticide Act (“FIFRA”). The remaining allegations in paragraph 33 set forth
26 conclusions of law for which no response is required.

27 34. The allegations in paragraph 34 set forth conclusions of law for which no
28 response is required.

1 35. Monsanto admits that Roundup[®]-branded products are registered by EPA for
2 manufacture, sale and distribution and are registered by the State of Missouri for sale and
3 distribution.

4 36. In response to the allegations in paragraph 36, Monsanto admits that EPA requires
5 registrants of herbicides to submit extensive data in support of the human health and
6 environmental safety of their products and further admits that EPA will not register or approve
7 the labeling of herbicides that do not satisfy the requirements set forth in FIFRA. Monsanto
8 states that the term “the product tests” in the final sentence of paragraph 36 is vague and
9 ambiguous, and Monsanto therefore denies the same. The remaining allegations in paragraph 36
10 set forth conclusions of law for which no answer is required.

11 37. Monsanto denies the allegations in paragraph 37 to the extent that they suggest
12 that EPA only evaluates the safety of pesticide products on the date of their initial registration.
13 Monsanto admits that EPA is in the process of conducting regulatory review of various pesticide
14 products, but Monsanto lacks information or knowledge sufficient to form a belief as to the truth
15 of the allegations in paragraph 37 regarding such pesticide products generally and therefore
16 denies those allegations. The remaining allegations in paragraph 37 set forth conclusions of law
17 for which no response is required.

18 38. In response to the allegations in paragraph 38, Monsanto admits that EPA has
19 undertaken a regulatory review of glyphosate and further admits that EPA has not released its
20 findings. Monsanto states, however, that: (a) in September 2016, EPA’s Office of Pesticide
21 Programs (“OPP”) issued a 227-page evaluation of glyphosate’s carcinogenic potential,
22 concluding that “[t]he strongest support is for [the descriptor] ‘not likely to be carcinogenic to
23 humans’ at doses relevant to human health risk assessment”¹; and (b) at the same time, EPA
24 posted an October 2015 final report by its standing Cancer Assessment Review Committee

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26 ¹ EPA’s Office of Pesticide Programs, *Glyphosate Issue Paper: Evaluation of Carcinogenic*
27 *Potential* at 141 (Sept. 12, 2016) (“EPA OPP Report”), [https://www.regulations.gov/](https://www.regulations.gov/document?D=EPA-HQ-OPP-2016-0385-0094)
28 [document?D=EPA-HQ-OPP-2016-0385-0094](https://www.regulations.gov/document?D=EPA-HQ-OPP-2016-0385-0094). The EPA OPP Report was prepared in
anticipation of an EPA Scientific Advisory Panel meeting on glyphosate’s carcinogenic
potential.

1 (“CARC”), in which CARC endorsed EPA’s existing classification of glyphosate as “Not Likely
2 to be Carcinogenic to Humans.”² Monsanto lacks information or knowledge sufficient to form a
3 belief as to the truth of the remaining allegations in paragraph 38 and therefore denies those
4 allegations.

5 39. In response to the allegations in paragraph 39, Monsanto admits that the New
6 York Attorney General filed a lawsuit against Monsanto in 1996 alleging false and misleading
7 advertising of Roundup[®]-branded products. This lawsuit was subsequently resolved without any
8 admission of wrongdoing by Monsanto. Monsanto states that none of the New York Attorney
9 General’s allegations related in any way to a purported or alleged risk of cancer. To the extent
10 the subparts purport to quote a document, the document speaks for itself and thus does not
11 require any further answer. The remaining allegations in paragraph 39 are vague and conclusory
12 and comprise attorney characterizations and are accordingly denied.

13 40. In response to the allegations in paragraph 40, Monsanto admits it entered into an
14 assurance of discontinuance with the New York Attorney General. The assurance speaks for
15 itself and thus does not require any further answer. The remaining allegations in paragraph 40
16 are vague and conclusory and comprise attorney characterizations and are accordingly denied.

17 41. Monsanto denies the allegations in paragraph 41.

18 42. In response to the allegations in paragraph 42, Monsanto admits that the French
19 court ruled that Monsanto had falsely advertised its herbicide Roundup[®] as “biodegradable” and
20 that it “left the soil clean,” but denies the allegations in paragraph 42 to the extent that they
21 suggest that this ruling was in any way related to plaintiff’s claim here that glyphosate can cause
22 cancer. Monsanto denies the remaining allegations in paragraph 42.

23 43. Monsanto denies the allegations in paragraph 43.
24
25

26 ² Cancer Assessment Review Committee, Health Effects Division, Office of Pesticide Programs,
27 U.S. Environmental Protection Agency, *Cancer Assessment Document – Evaluation of the*
28 *Carcinogenic Potential of Glyphosate* at 10, 77 (Final Report, Oct. 1, 2015) (“EPA CARC Final
Report”), <https://www.regulations.gov/document?D=EPA-HQ-OPP-2016-0385-0014>.

1 44. In response to the allegations in paragraph 44, Monsanto states that the cited
2 document speaks for itself and does not require a response. To the extent that the allegations in
3 paragraph 44 go beyond a restatement of the cited document, Monsanto lacks information or
4 knowledge sufficient to form a belief as to the truth of the remaining allegations in paragraph 44
5 and therefore denies those allegations.

6 45. Monsanto admits the allegations in paragraph 45.

7 46. In response to the allegations in paragraph 46, Monsanto states that the cited the
8 document speaks for itself and does not require a response. To the extent that the allegations in
9 paragraph 46 go beyond a restatement of the cited document, Monsanto lacks information or
10 knowledge sufficient to form a belief as to the truth of the remaining allegations in paragraph 46
11 and therefore denies those allegations.

12 47. Monsanto states that the term “toxic” as used in paragraph 47 is vague and
13 ambiguous to the extent it is intended to suggest any evidence of carcinogenicity. Monsanto
14 denies the allegations in paragraph 47.

15 48. Monsanto admits the allegations in paragraph 48.

16 49. In response to the allegations in paragraph 49, Monsanto states that the document
17 speaks for itself and does not require a response. To the extent that a response is deemed
18 required, Monsanto denies the allegations in paragraph 49.

19 50. In response to the allegations in paragraph 50, Monsanto admits that Julie Marc
20 published a study entitled “Glyphosate-based pesticides affect cell cycle regulation” in 2004. To
21 the extent that paragraph 50 characterizes the meaning of the cited study, Monsanto denies the
22 remaining allegations in paragraph 50.

23 51. In response to the allegations in paragraph 51, Monsanto states that these
24 documents speak for themselves and do not require a response. To the extent that a response is
25 deemed required, Monsanto denies the allegations in paragraph 51.

26 52. In response to the allegations in paragraph 52, Monsanto states that the cited
27 document speaks for itself and does not require a response. To the extent that paragraph 52
28

1 characterizes the meaning of the cited study, Monsanto denies the remaining allegations in
2 paragraph 52.

3 53. Monsanto denies the allegations in paragraph 53.

4 54. In response to the allegations in paragraph 54, Monsanto states that the cited
5 document speaks for itself and does not require a response. To the extent that paragraph 54
6 characterizes the meaning of the cited study, Monsanto denies the remaining allegations in
7 paragraph 54.

8 55. In response to the allegations in paragraph 55, Monsanto states that the cited
9 document speaks for itself and does not require a response. To the extent that paragraph 55
10 characterizes the meaning of the cited study, Monsanto denies the remaining allegations in
11 paragraph 55.

12 56. Monsanto denies the allegation that the cited studies support the allegation that
13 glyphosate or Roundup[®]-branded products pose any risk to human health and denies the
14 remaining allegations in paragraph 56.

15 57. Monsanto denies the allegations in paragraph 57.

16 58. Monsanto denies the allegations in paragraph 58.

17 59. Monsanto denies the allegations in paragraph 59.

18 60. Monsanto denies the allegations in paragraph 60.

19 61. Monsanto admits that it has in the past promoted, and continues to promote,
20 Roundup[®]-branded herbicides as safe when used in accordance with the products' labeling.
21 Monsanto denies the remaining allegations in paragraph 61.

22 62. Monsanto admits that the International Agency for Research on Cancer ("IARC")
23 is a subgroup of the World Health Organization ("WHO") of the United Nations. Monsanto
24 lacks information or knowledge sufficient to form a belief as to the truth of the remaining
25 allegations in paragraph 62 and therefore denies those allegations.

26 63. Monsanto lacks information or knowledge sufficient to form a belief as to the
27 truth of the allegations in paragraph 63 and therefore denies those allegations. Monsanto denies
28 that glyphosate met the criteria necessary to be eligible for review.

1 64. Monsanto lacks information or knowledge sufficient to form a belief as to the
2 truth of the allegations in paragraph 64 and therefore denies those allegations. Monsanto denies
3 that glyphosate met the criteria necessary to be eligible for review.

4 65. Monsanto admits that in March 2015 IARC classified glyphosate as a class 2A
5 carcinogen. Monsanto specifically denies that IARC’s evaluation of human, animal or genotoxic
6 evidence was “cumulative.” The remaining allegations in paragraph 65 are vague and
7 conclusory and comprise attorney characterizations and are accordingly denied.

8 66. Monsanto admits that the full IARC Monograph regarding glyphosate was
9 published on July 29, 2015 and that the Monograph purported to classify glyphosate as a class
10 2A carcinogen. In response to the remaining allegations in paragraph 66, Monsanto states that
11 the document speaks for itself and does not require a response. To the extent that a response is
12 deemed required, the remaining allegations in paragraph 66 comprise attorney characterizations
13 and are accordingly denied.

14 67. In response to the allegations in paragraph 67, Monsanto states that the document
15 speaks for itself and does not require a response. To the extent that a response is deemed
16 required, the allegations in paragraph 67 comprise attorney characterizations and are accordingly
17 denied.

18 68. In response to the allegations in paragraph 68, Monsanto states that the document
19 speaks for itself and does not require a response. To the extent that a response is deemed
20 required, the allegations in paragraph 68 comprise attorney characterizations and are accordingly
21 denied.

22 69. Monsanto denies the allegations in paragraph 69.

23 70. The allegations in paragraph 70 comprise attorney characterizations and are
24 accordingly denied.

25 71. Monsanto admits the allegations in paragraph 71.

26 72. In response to the allegations in paragraph 72, Monsanto states that the cited
27 document speaks for itself and does not require a response. To the extent that paragraph 72
28

1 characterizes the meaning of the cited study, Monsanto denies the remaining allegations in
2 paragraph 72.

3 73. In response to the allegations in paragraph 73, Monsanto admits that certain
4 studies have reported that glyphosate and glyphosate-based formulations induced oxidative stress
5 under artificial experimental conditions. Monsanto denies that these studies provide any reliable
6 evidence that glyphosate or glyphosate-based formulations induce oxidative stress in humans or
7 animals under real-world exposure conditions. Monsanto denies the remaining allegations in
8 paragraph 73.

9 74. The allegations in paragraph 74 are vague and ambiguous and are accordingly
10 denied.

11 75. In response to the allegations in paragraph 75, Monsanto states that the cited
12 document speaks for itself and does not require a response.

13 76. In response to the allegations in paragraph 76, Monsanto states that the cited
14 document speaks for itself and does not require a response. To the extent that paragraph 76
15 characterizes the meaning of the cited study, Monsanto denies the remaining allegations in
16 paragraph 76.

17 77. Monsanto denies the allegations in paragraph 77.

18 78. In response to the allegations in paragraph 78, Monsanto states that the cited
19 document speaks for itself and does not require a response. Monsanto otherwise denies the
20 allegations in paragraph 78.

21 79. Monsanto admits that there is no reliable evidence that Roundup[®]-branded
22 products are genotoxic and that regulatory authorities and independent experts agree that
23 Roundup[®]-branded products are not genotoxic. Monsanto otherwise denies the allegations in
24 paragraph 79.

25 80. Monsanto denies the allegations in paragraph 80.

26 81. Monsanto denies the allegations in paragraph 81.

27 82. Monsanto denies the allegations in paragraph 82.

28

1 83. Monsanto admits that in 1985 EPA reviewed a regulatory study involving mice
2 exposed to glyphosate. Monsanto denies the remaining allegations in paragraph 83.

3 84. Monsanto denies the allegations in paragraph 84.

4 85. Monsanto denies the allegations in paragraph 85.

5 86. Monsanto admits the allegations in paragraph 86.

6 87. Monsanto denies the allegations in paragraph 87.

7 88. Monsanto admits the allegations in paragraph 88.

8 89. Monsanto denies the allegations in paragraph 89.

9 90. Monsanto denies the allegations in paragraph 90.

10 91. Monsanto denies the allegations in paragraph 91.

11 92. Monsanto denies the allegations in paragraph 92.

12 93. Monsanto denies the allegations in paragraph 93.

13 94. Monsanto denies the allegations in paragraph 94.

14 95. Monsanto denies the allegations in paragraph 95.

15 96. Monsanto admits that independent experts and regulatory agencies agree that
16 there is no evidence of carcinogenicity or genotoxicity in glyphosate and Roundup[®]-branded
17 products and admits that it has made statements reflecting this fact. Monsanto denies the
18 remaining allegations in paragraph 96.

19 97. In response to the allegations in paragraph 97, Monsanto admits that it has stated
20 and continues to state that Roundup[®]-branded products are safe when used as labeled and that
21 they are non-carcinogenic and non-genotoxic. Monsanto otherwise denies the allegations in
22 paragraph 97.

23 98. In response to the allegations in paragraph 98, Monsanto admits that an EPA
24 review committee classified glyphosate as Class C in 1985 based on limited data. Monsanto
25 denies the remaining allegations in paragraph 98.

26 99. In response to the allegations in paragraph 99, Monsanto admits that EPA
27 changed its classification of glyphosate to Group E based upon a full evaluation of the scientific
28

1 evidence, including but not limited to three animal carcinogenicity studies. Monsanto otherwise
2 denies the remaining allegations in paragraph 99.

3 100. In response to the allegations in paragraph 100, Monsanto admits that plaintiff has
4 accurately quoted from one passage in an EPA document in 1991 with respect to the designation
5 of an agent as Group E, but states that EPA repeatedly has concluded that glyphosate does not
6 pose any cancer risk to humans. In addition to the conclusions in the EPA OPP Report and the
7 EPA CARC Final Report discussed above, other specific findings of safety include:

- 8 • “In June 1991, EPA classified glyphosate as a Group E [carcinogen]—one that shows
9 evidence of non-carcinogenicity for humans—based on the lack of convincing
10 evidence of carcinogenicity in adequate studies.” EPA, *Glyphosate: Reregistration
11 Eligibility Decision (RED) Facts*, 2 (Sept. 1993),
12 <http://archive.epa.gov/pesticides/reregistration/web/pdf/0178fact.pdf>.
- 13 • “No evidence of carcinogenicity.” *Glyphosate; Pesticide Tolerances*, 67 Fed. Reg.
14 60,934, 60,943 (Sept. 27, 2002) (to be codified at 40 C.F.R. pt. 180).
- 15 • “Glyphosate has no carcinogenic potential.” *Glyphosate; Pesticide Tolerance*, 69
16 Fed. Reg. 65,081, 65,086 (Nov. 10, 2004) (to be codified at 40 C.F.R. pt. 180).
- 17 • “There is [an] extensive database available on glyphosate, which indicate[s] that
18 glyphosate is not mutagenic, not a carcinogen, and not a developmental or
19 reproductive toxicant.” *Glyphosate; Pesticide Tolerances*, 73 Fed. Reg. 73,586,
20 73,589 (Dec. 3, 2008) (to be codified at 40 C.F.R. pt. 180).
- 21 • “EPA has concluded that glyphosate does not pose a cancer risk to humans.”
22 *Glyphosate; Pesticide Tolerances*, 78 Fed. Reg. 25,396, 25,398 (May 1, 2013) (to be
23 codified at 40 C.F.R. pt. 180).
- 24 • “In 2014, EPA reviewed over 55 epidemiological studies conducted on the possible
25 cancer and non-cancer effects of [g]lyphosate. Our review concluded that this body
26 of research does not provide evidence to show that [g]lyphosate causes cancer and
27 does not warrant any change in EPA’s cancer classification for [g]lyphosate.”
28 *Agriculture Biotechnology: A Look at Federal Regulation and Stakeholder
Perspectives: Hearing Before the S. Comm. on Agr., Nutrition, & Forestry*, 114th
Cong. (2015) (statement of Dr. William Jordan, Deputy Director of EPA’s Office of
Pesticide Programs), [http://www.ag.senate.gov/templates/watch.cfm?id=74793e67-
5056-a055-64af-0e55900753b4](http://www.ag.senate.gov/templates/watch.cfm?id=74793e67-5056-a055-64af-0e55900753b4), at time stamp 55:05 – 56:20 (“EPA 2015 Desk
Statement”).

24 Monsanto denies the remaining allegations in paragraph 100.

25 101. In response to the allegations in paragraph 101, Monsanto admits that it – along
26 with a large number of other companies and governmental agencies – was defrauded by two
27 chemical testing laboratories, and that Monsanto had hired both of these laboratories to conduct
28 testing on glyphosate. Monsanto states that only one of these laboratories was hired to conduct

1 toxicity tests of glyphosate. Monsanto denies that EPA’s registration of glyphosate or any
2 glyphosate-based herbicides is based upon any invalid Industrial Bio-Test (“IBT”) Laboratories
3 studies. To the extent that the allegations in paragraph 101 are intended to suggest that
4 Monsanto was anything other than a victim of this fraud, such allegations are denied.

5 102. In response to the allegations in paragraph 102, Monsanto admits that IBT
6 Laboratories was hired to conduct toxicity studies in connection with the registration of a
7 Roundup[®]-branded product. Monsanto denies that EPA’s regulatory approval of such product is
8 based upon any fraudulent or false IBT studies.

9 103. Monsanto denies the allegations in paragraph 103 to the extent they suggest that
10 EPA performed an inspection of IBT Laboratories solely or specifically in connection with
11 studies conducted on glyphosate. Monsanto admits that EPA performed an audit of IBT
12 Laboratories to investigate that laboratory’s fraudulent and/or improper testing procedures in
13 connection with services provided to a broad number of private and governmental entities and
14 that this inspection included a review of studies IBT conducted on glyphosate. Monsanto was
15 one of several pesticide manufacturers who had used IBT test results. The audit found some
16 toxicology studies conducted with the original Roundup[®] herbicide to be invalid. As a result,
17 Monsanto repeated all required studies in accordance with applicable EPA testing guidelines.
18 Monsanto denies that EPA’s registration of glyphosate or any glyphosate-based herbicides is
19 based upon any invalid IBT studies. To the extent that the allegations in paragraph 103 are
20 intended to suggest that Monsanto was anything other than a victim of this fraud, Monsanto
21 denies those allegations.

22 104. In response to the allegations in paragraph 104, Monsanto admits that three IBT
23 employees were convicted of the charge of fraud, but Monsanto denies that any of the
24 individuals were convicted based upon studies conducted on glyphosate or glyphosate-based
25 herbicides.

26 105. In response to the allegations in paragraph 105, Monsanto admits that it – along
27 with numerous other private companies – hired Craven Laboratories as an independent
28

1 laboratory to conduct residue studies for Monsanto agricultural products. Monsanto otherwise
2 denies the remaining allegations in paragraph 105.

3 106. In response to the allegations in paragraph 106, Monsanto admits that EPA
4 investigated Craven Laboratories in March 1991 for fraud. To the extent that the allegations in
5 paragraph 106 are intended to suggest that Monsanto was anything other than a victim of this
6 fraud, Monsanto denies those allegations.

7 107. In response to the allegations in paragraph 107, Monsanto admits that it was
8 defrauded by Craven Laboratories and that, as a result, Monsanto repeated the studies conducted
9 at Craven Laboratories at a substantial cost. To the extent that the allegations in paragraph 107
10 are intended to suggest that Monsanto was anything other than a victim of this fraud, Monsanto
11 denies those allegations.

12 108. In response to the allegations in paragraph 108, Monsanto admits that it has stated
13 and continues to state that Roundup[®]-branded products are safe when used as labeled and that
14 they are non-carcinogenic and non-genotoxic.

15 109. In response to the allegations in paragraph 109, Monsanto admits that a 1986 joint
16 report of the World Health Organization and Food and Agriculture Organization of the United
17 Nations is cited in support of the safety of glyphosate and Roundup[®]-branded products.
18 Monsanto denies that this report is the “primary” cite in support of the safety of glyphosate and
19 Roundup[®]-branded products, and denies that WHO considers glyphosate to be a probable
20 carcinogen. Monsanto denies the remaining allegations in paragraph 109.

21 110. Monsanto denies the allegations in paragraph 110.

22 111. Monsanto denies the allegations in paragraph 111.

23 112. Monsanto denies the allegations in paragraph 112.

24 113. Monsanto denies the allegations in paragraph 113.

25 114. Monsanto denies the allegations in paragraph 114.

26 115. Monsanto denies the allegations in paragraph 115.

27 116. Monsanto denies the allegations in paragraph 116.

28 117. Monsanto denies the allegations in paragraph 117.

1 118. Monsanto admits that plaintiff purports to bring an action for compensatory
2 damages but denies any liability to plaintiff. Monsanto denies the remaining allegations in
3 paragraph 118.

4 119. Monsanto denies the allegations in paragraph 119.

5 120. Monsanto denies the allegations in paragraph 120.

6 121. Monsanto lacks information or knowledge sufficient to form a belief as to the
7 truth of the allegations in paragraph 121 and therefore denies those allegations.

8 122. Monsanto lacks information or knowledge sufficient to form a belief as to the
9 truth of the allegations in paragraph 122 and therefore denies those allegations.

10 123. Monsanto lacks information or knowledge sufficient to form a belief as to the
11 truth of the allegations in the first sentence of paragraph 123 and therefore denies those
12 allegations. Monsanto denies the remaining allegations in paragraph 123.

13 124. Monsanto lacks information or knowledge sufficient to form a belief as to the
14 truth of the allegations in paragraph 124 and therefore denies those allegations.

15 125. Monsanto incorporates by reference its responses to paragraphs 1 through 124 in
16 response to paragraph 125 of plaintiff's Complaint.

17 126. In response to the allegations in paragraph 126, Monsanto denies that it has
18 concealed the alleged "true risks associated with Roundup and glyphosate." The remaining
19 allegations in paragraph 126 set forth conclusions of law for which no response is required.

20 127. In response to the allegations in paragraph 127, Monsanto admits that it has stated
21 and continues to state that Roundup[®]-branded products are safe when used as labeled and that
22 they are non-toxic and non-carcinogenic.

23 128. In response to the allegations in paragraph 128, Monsanto states that the cited
24 document speaks for itself and does not require a response.

25 129. Monsanto denies that exposure to Roundup[®]-branded products and glyphosate
26 exposed plaintiff to risk of his alleged cancer and denies the remaining allegations in paragraph
27 129. Monsanto states, however, that the scientific studies upon which IARC purported to base
28 its classification were all publicly available before March 2015.

1 130. Monsanto denies that it concealed “the true character, quality and nature of
2 Roundup.” The remaining allegations of paragraph 130 set forth conclusions of law for which
3 no response is required. To the extent that a response is deemed required, Monsanto denies all of
4 plaintiff’s allegations in paragraph 130. Monsanto states, however, that the scientific studies
5 upon which IARC purported to base its classification were all publicly available before March
6 2015.

7 131. Monsanto denies that it engaged in the “wrongdoing” alleged in the Complaint
8 and denies that there is any reliable scientific evidence that exposure to glyphosate or Roundup[®] -
9 branded products can cause cancer. Monsanto states, however, that the scientific studies upon
10 which IARC purported to base its classification were all publicly available before March 2015.
11 The remaining allegations in paragraph 131 set forth conclusions of law for which no response is
12 required, consist of attorney characterizations and are accordingly denied, or comprise
13 allegations for which Monsanto lacks information or knowledge sufficient to form a belief as to
14 the truth of the allegations asserted and therefore denies those allegations.

15 132. Monsanto incorporates by reference its responses to paragraphs 1 through 131 in
16 response to paragraph 132 of plaintiff’s Complaint.

17 133. The allegations in paragraph 133 set forth conclusions of law for which no
18 response is required.

19 134. Monsanto denies the allegations in paragraph 134.

20 135. Monsanto denies the allegations in paragraph 135, including each of its subparts.

21 136. Monsanto denies the allegations in paragraph 136.

22 137. Monsanto denies the allegations in paragraph 137.

23 138. Monsanto denies the allegations in paragraph 138, including each of its subparts.

24 139. Monsanto denies the allegations in paragraph 139.

25 140. Monsanto denies the allegations in paragraph 140.

26 141. Monsanto denies the allegations in paragraph 141.

27 142. Monsanto denies the allegations in paragraph 142.

28

1 In response to the “WHEREFORE” paragraph following paragraph 142, Monsanto
2 demands that judgment be entered in its favor and against plaintiff; that plaintiff’s Complaint be
3 dismissed, with prejudice; and that Monsanto be awarded costs of suit and reasonable attorney’s
4 fees as allowed by law and such further and additional relief as this Court may deem just and
5 proper.

6 143. Monsanto incorporates by reference its responses to paragraphs 1 through 142 in
7 response to paragraph 143 of plaintiff’s Complaint.

8 144. Monsanto lacks information or knowledge sufficient to form a belief as to the
9 truth of the allegations in paragraph 144 and therefore denies those allegations.

10 145. Monsanto lacks information or knowledge sufficient to form a belief as to the
11 truth of the allegations in paragraph 145 and therefore denies those allegations.

12 146. Monsanto denies the allegations in paragraph 146.

13 147. Monsanto denies the allegations in paragraph 147.

14 148. Monsanto denies the allegations in paragraph 148.

15 149. Monsanto denies the allegations in paragraph 149, including each of its subparts.

16 150. Monsanto denies the allegations in paragraph 150.

17 151. Monsanto denies that Roundup[®]-branded products have “dangerous
18 characteristics.” Monsanto lacks information or knowledge sufficient to form a belief as to the
19 truth of the remaining allegations in paragraph 151 and therefore denies those allegations.

20 152. Monsanto lacks information or knowledge sufficient to form a belief as to the
21 truth of the allegations in paragraph 152 and therefore denies those allegations.

22 153. Monsanto denies the allegations in paragraph 153.

23 154. The allegations in paragraph 154 set forth conclusions of law for which no
24 response is required.

25 155. Monsanto denies the allegations in paragraph 155.

26 156. Monsanto denies the allegations in paragraph 156.

27 157. Monsanto denies the allegations in paragraph 157.

28 158. Monsanto denies the allegations in paragraph 158.

1 159. Monsanto denies the allegations in paragraph 159.

2 160. Monsanto denies the allegations in paragraph 160.

3 161. Monsanto denies the allegations in paragraph 161.

4 162. Monsanto denies the allegations in paragraph 162.

5 163. Monsanto denies the allegations in paragraph 163.

6 164. Monsanto denies the allegations in paragraph 164.

7 In response to the “WHEREFORE” paragraph following paragraph 164, Monsanto
8 demands that judgment be entered in its favor and against plaintiff; that plaintiff’s Complaint be
9 dismissed, with prejudice; and that Monsanto be awarded costs of suit and reasonable attorney’s
10 fees as allowed by law and such further and additional relief as this Court may deem just and
11 proper.

12 165. Monsanto incorporates by reference its responses to paragraphs 1 through 164 in
13 response to paragraph 165 of plaintiff’s Complaint.

14 166. Monsanto admits the allegations in paragraph 166.

15 167. Monsanto lacks information or knowledge sufficient to form a belief as to the
16 truth of the allegations in paragraph 167 and therefore denies those allegations.

17 168. Monsanto denies the allegations in paragraph 168. All labeling of Roundup[®]-
18 branded products has been and remains EPA-approved and in compliance with all federal
19 requirements under FIFRA.

20 169. Monsanto denies the allegations in paragraph 169.

21 170. Monsanto denies the allegations in paragraph 170. All labeling of Roundup[®]-
22 branded products has been and remains EPA-approved and in compliance with all federal
23 requirements under FIFRA.

24 171. Monsanto denies the allegations in paragraph 171. All labeling of Roundup[®]-
25 branded products has been and remains EPA-approved and in compliance with all federal
26 requirements under FIFRA.

27 172. Monsanto denies the allegations in paragraph 172.

28

1 173. Monsanto lacks information or knowledge sufficient to form a belief as to the
2 truth of the allegations regarding plaintiff's use history in paragraph 173 and therefore denies
3 those allegations. Monsanto denies the remaining allegations in paragraph 173.

4 174. The allegations in paragraph 174 set forth conclusions of law for which no
5 response is required.

6 175. Monsanto denies the allegations in paragraph 175.

7 176. Monsanto denies the allegations in paragraph 176.

8 177. Monsanto denies the allegations in paragraph 177.

9 178. Monsanto denies the allegations that Roundup[®]-branded products are defective
10 and accordingly denies the allegations in paragraph 178.

11 179. The allegations in paragraph 179 set forth conclusions of law for which no
12 response is required.

13 180. Monsanto lacks information or knowledge sufficient to form a belief as to the
14 truth of the allegations in paragraph 180 and therefore denies those allegations.

15 181. Monsanto denies the allegations in paragraph 181.

16 182. Monsanto denies the allegations in paragraph 182.

17 183. Monsanto denies the allegations in paragraph 183.

18 184. Monsanto denies the allegations in paragraph 184.

19 185. Monsanto denies the allegations in paragraph 185.

20 In response to the "WHEREFORE" paragraph following paragraph 185, Monsanto
21 demands that judgment be entered in its favor and against plaintiff; that plaintiff's Complaint be
22 dismissed, with prejudice; and that Monsanto be awarded costs of suit and reasonable attorney's
23 fees as allowed by law and such further and additional relief as this Court may deem just and
24 proper.

25 186. Monsanto incorporates by reference its responses to paragraphs 1 through 185 in
26 response to paragraph 186 of plaintiff's Complaint.

27
28

1 187. Monsanto denies the allegations in paragraph 187. Additionally, the allegations
2 in the last sentence in paragraph 187 set forth conclusions of law for which no response is
3 required.

4 188. Monsanto lacks information or knowledge sufficient to form a belief as to the
5 truth of the allegations in paragraph 188 concerning the plaintiff's claimed use of Roundup[®]-
6 branded products and therefore denies those allegations. The remaining allegations in paragraph
7 188 set forth conclusions of law for which no response is required.

8 189. The allegations in paragraph 189 set forth conclusions of law for which no
9 response is required.

10 190. Monsanto denies the allegations in paragraph 190.

11 191. Monsanto denies the allegations in paragraph 191.

12 192. Monsanto lacks information or knowledge sufficient to form a belief as to the
13 truth of the allegations in paragraph 192 concerning the condition of any Roundup[®]-branded
14 product allegedly used by plaintiff or about plaintiff's alleged uses of such product and therefore
15 denies the allegations in paragraph 192.

16 193. Monsanto denies the allegations in paragraph 193.

17 194. Monsanto denies the allegations in paragraph 194.

18 195. Monsanto denies the allegations in paragraph 195.

19 In response to the "WHEREFORE" paragraph following paragraph 195, Monsanto
20 demands that judgment be entered in its favor and against plaintiff; that plaintiff's Complaint be
21 dismissed, with prejudice; and that Monsanto be awarded costs of suit and reasonable attorney's
22 fees as allowed by law and such further and additional relief as this Court may deem just and
23 proper.

24 196. Monsanto incorporates by reference its responses to paragraphs 1 through 195 in
25 response to paragraph 196 of plaintiff's Complaint.

26 197. In response to the allegations in paragraph 197, Monsanto admits that it has
27 manufactured, distributed, advertised, promoted, and sold Roundup[®]-branded products.
28

1 298. Monsanto lacks information or knowledge sufficient to form a belief as to the
2 truth of the allegations in paragraph 198 concerning plaintiff's claimed use of Roundup[®]-branded
3 products and therefore denies those allegations. Monsanto admits that it has sold glyphosate
4 based herbicides in accordance with their EPA-approved labeling. The remaining allegations in
5 paragraph 198 set forth conclusions of law for which no response is required.

6 299. Monsanto lacks information or knowledge sufficient to form a belief as to the
7 truth of the allegations in paragraph 199 concerning plaintiff's foreseeable use of Roundup[®]-
8 branded products and therefore denies those allegations. The remaining allegations in paragraph
9 199 set forth conclusions of law for which no response is required.

10 300. Monsanto lacks information or knowledge sufficient to form a belief as to the
11 truth of the allegations in paragraph 200 and therefore denies those allegations.

12 301. Monsanto lacks information or knowledge sufficient to form a belief as to the
13 truth of the allegations in paragraph 201 and therefore denies those allegations.

14 302. The allegations in paragraph 202 set forth conclusions of law for which no
15 response is required.

16 303. The allegations in paragraph 203 set forth conclusions of law for which no
17 response is required.

18 304. Monsanto denies the allegations in paragraph 204.

19 305. Monsanto denies the allegations in paragraph 205.

20 306. Monsanto denies the allegations in paragraph 206.

21 307. Monsanto denies the allegations in paragraph 207.

22 308. Monsanto lacks information or knowledge sufficient to form a belief as to the
23 truth of the allegations in paragraph 208 regarding plaintiff's reliance and therefore denies those
24 allegations. Monsanto denies the remaining allegations in paragraph 208.

25 309. Monsanto lacks information or knowledge sufficient to form a belief as to the
26 truth of the allegations in paragraph 209 regarding reliance by plaintiff and others and therefore
27 denies those allegations. Monsanto denies the remaining allegations in paragraph 209.

28 310. Monsanto denies the allegations in paragraph 210.

1 211. Monsanto denies the allegations in paragraph 211.

2 212. Monsanto denies the allegations in paragraph 212.

3 213. Monsanto denies the allegations in paragraph 213.

4 214. Monsanto denies the allegations in paragraph 214.

5 In response to the “WHEREFORE” paragraph following paragraph 214, Monsanto
6 demands that judgment be entered in its favor and against plaintiff; that plaintiff’s Complaint be
7 dismissed, with prejudice; and that Monsanto be awarded costs of suit and reasonable attorney’s
8 fees as allowed by law and such further and additional relief as this Court may deem just and
9 proper.

10 In response to the allegations in the section entitled “PRAYER FOR RELIEF,” Monsanto
11 denies that plaintiff is entitled to the relief sought therein, including any judgment for any
12 damages, interest, costs, or any other relief whatsoever.

13 Every allegation in the Complaint that is not specifically and expressly admitted in this
14 Answer is hereby specifically and expressly denied.

15 **SEPARATE AND AFFIRMATIVE DEFENSES**

16 1. The Complaint, in whole or part, fails to state a claim or cause of action against
17 Monsanto upon which relief can be granted.

18 2. Venue is inconvenient for plaintiff’s claims.

19 3. Plaintiff’s claims are barred in whole because plaintiff cannot proffer any
20 scientifically reliable evidence that the products at issue were defective or unreasonably
21 dangerous.

22 4. Any alleged negligent or culpable conduct of Monsanto, none being admitted,
23 was so insubstantial as to be insufficient to be a proximate or substantial contributing cause of
24 plaintiff’s alleged injuries.

25 5. Plaintiff’s claims are barred, in whole or in part, because the products at issue
26 were designed, manufactured, marketed and labeled with proper warnings, information, cautions
27 and instructions, in accordance with the state of the art and the state of scientific and
28 technological knowledge.

1 6. Plaintiff's claims are barred, in whole or in part, because the products at issue
2 were not defective or unreasonably dangerous in that they complied with, at all relevant times,
3 all applicable government safety standards.

4 7. Any claims based on allegations that Monsanto misled, defrauded, made
5 misrepresentations to, or withheld information from U.S. EPA are preempted by federal law. *See,*
6 *e.g., Buckman Co. v. Plaintiffs' Legal Comm.*, 531 U.S. 341 (2001); *Nathan Kimmel, Inc. v.*
7 *Dowelanco*, 275 F.3d 1199 (9th Cir. 2002).

8 8. Plaintiff's claims are preempted, in whole or in part, by applicable federal law
9 relating to the design, testing, producing, manufacturing, labeling, distributing, modeling,
10 processing, and supply of Roundup[®]-branded products and/or glyphosate-containing products.

11 9. Plaintiff's claims are preempted, in whole or in part, because of U.S. EPA
12 findings that glyphosate does not cause cancer in humans and/or because of U.S. EPA-approved
13 product labeling.

14 10. Plaintiff's claims are barred, in whole or in part, by the doctrine of primary
15 jurisdiction, including by the authority delegated by Congress to the U.S. EPA.

16 11. Plaintiff's claims are barred, in whole or in part, because plaintiff's injuries, if
17 any, were the result of conduct of plaintiff, independent third parties, and/or events that were
18 extraordinary under the circumstances, not foreseeable in the normal course of events, and/or
19 independent, intervening and superseding causes of the alleged injuries, including but not limited
20 to plaintiff's pre-existing medical conditions.

21 12. The doctrines contained in Restatement (Second) of Torts § 402A, comments j
22 and k, bar plaintiff's claims against Monsanto in whole or in part.

23 13. Applicable statutes of limitations and/or repose bar plaintiff's claims in whole or
24 in part.

25 14. Plaintiff's misuse or abnormal use of the product or failure to follow instructions
26 bar plaintiff's claims in whole or in part.

27 15. If plaintiff suffered injury or damages as alleged, which is denied, such injury or
28 damage resulted from: (a) acts or omissions of persons or entities for which Monsanto is neither

1 liable nor responsible or, in the alternative, Monsanto is entitled to an assessment of the relative
2 degree of fault of all such persons and entities; or (b) resulted from diseases and/or causes that
3 are not related or connected with any product sold, distributed, or manufactured by Monsanto.
4 Such acts or omissions on the part of others or diseases or causes constitute an independent,
5 intervening and sole proximate cause of plaintiff's alleged injury or damages.

6 16. Monsanto had no legal relationship or privity with plaintiff and owed no duty to
7 him by which liability could be attributed to it.

8 17. Monsanto made no warranties of any kind or any representations of any nature
9 whatsoever to plaintiff. If any such warranties were made, which Monsanto specifically denies,
10 then plaintiff failed to give notice of any breach thereof.

11 18. Plaintiff's claims are preempted in whole or part by the Freedom of Speech
12 Clause of the First Amendment of the U.S. Constitution.

13 19. Plaintiff's claims for punitive and/or exemplary damages are barred because such
14 an award would violate Monsanto's due process, equal protection and other rights under the
15 United States Constitution, the Missouri Constitution, the Texas Constitution, and/or other
16 applicable state constitutions.

17 20. Plaintiff's claims for punitive and/or exemplary damages are barred because
18 plaintiff has failed to allege conduct warranting imposition of punitive damages under Missouri
19 law, Texas law, and/or other applicable state laws.

20 21. Plaintiff's claims for punitive and/or exemplary damages are barred and/or limited
21 by operation of state and/or federal law, including Missouri Revised Statute § 510.265.1 and
22 Tex. Civ. Prac. & Rem. Code Ann. §§ 41.004(a), 41.008(b).

23 22. Plaintiff's claims are barred in whole or in part by plaintiff's own
24 contributory/comparative negligence.

25 23. Plaintiff's claims are barred in whole or in part by plaintiff's own failure to
26 mitigate damages.

27 24. Plaintiff's claims are barred in whole or in part by the sophisticated user doctrine.

28

1 25. To the extent that plaintiff recovered payments for his alleged injuries from any
2 collateral source(s) or other source(s), plaintiff's recovery in this lawsuit, if any, shall be reduced
3 to the extent allowed by applicable law, including as allowed for under Missouri Revised Statute
4 § 490.715.

5 26. If plaintiff has been injured or damaged, no injury or damages being admitted,
6 such injuries were not caused by a Monsanto product.

7 27. Plaintiff's claims are barred to the extent that plaintiff seeks relief under the laws
8 of states that do not govern plaintiff's claims.

9 28. Plaintiff's claims are barred, in whole or in part, by application of TEX. CIV.
10 PRAC. & REM. CODE ANN. § 82.008.

11 29. Monsanto hereby gives notice that it intends to rely upon such other defenses as
12 may become available or apparent during the course of discovery and thus reserves its right to
13 amend this Answer to assert such defenses.

14 **WHEREFORE**, Defendant Monsanto demands judgment in its favor and against
15 plaintiff, dismissing plaintiff's Complaint with prejudice, together with the costs of suit and such
16 other relief as the Court deems equitable and just.

17 **JURY TRIAL DEMAND**

18 Monsanto demands a jury trial on all issues so triable.

19
20 DATED: November 6, 2017

Respectfully submitted,

21
22 /s/ Joe G. Hollingsworth
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28 MONSANTO COMPANY