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Transcript of Trial - Day 12

Date: October 4, 2021

Case: Clark, et al. -v- Monsanto Company, et al.

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF LOS ANGELES
 DEPARTMENT SSC 1 HON. DANIEL J. BUCKLEY, JUDGE

DESTINY CLARK, ON BEHALF OF HER)	
MINOR CHILD, EZRA CLARK,)	
)	
Plaintiffs,)	
)	
VS.)	CASE NO.
)	20STCV46616
MONSANTO COMPANY, et al.,)	
)	
Defendants.)	

REPORTER'S TRANSCRIPT OF TRIAL PROCEEDINGS
 TRIAL DAY 12
 Monday, October 4th, 2021

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 OFFICIAL COURT REPORTER PRO TEMPORE

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Transcript of Trial - Day 12
Conducted on October 4, 2021

1835

1 CASE NUMBER: 20STCV46616
2 CASE NAME: CLARK, ET AL. V. MONSANTO
3 LOS ANGELES, CA OCTOBER 4TH, 2021 - TRIAL DAY 12
4 DEPARTMENT SSC 1 HON. DANIEL BUCKLEY, JUDGE
5 APPEARANCES: (AS HERETOFORE NOTED)
6 REPORTER: DEBRA BOLLMAN FARFAN, CSR 11648
7 TIME: A.M. SESSION/P.M. SESSION
8

9 (THE FOLLOWING PROCEEDINGS WERE
10 HELD IN OPEN COURT OUTSIDE THE
11 PRESENCE OF THE JURY:)

12
13 THE COURT: Why don't we go on the record
14 to cover some of the things that have been
15 discussed.

16 So copies have been made of the updated
17 jury instructions -- we'll mark that as
18 Exhibit 9511 -- with the changes that were discussed
19 during the last time we were together on the record.
20

21 (MARKED FOR IDENTIFICATION EXHIBIT
22 NO. 9511.)
23

24 THE COURT: Let me ask that we provide a
25 list of all exhibits that have been admitted based
26 on your stipulations and/or my rulings so there is a
27 clean record -- and we'll mark that document as
28 9512 -- and provide that to Stephanie.

1 MS. SAULINO: Your Honor, I believe that
2 what we are waiting for Ms. Ephron for is related to
3 that.

4 THE COURT: I understand.

5 MS. SAULINO: Okay.

6 MS. PALMER: Yes, your Honor, and I
7 believe Ms. Ephron might be logged in on Zoom right
8 now.

9 THE CLERK: She is.

10 THE COURT: Ms. Ephron, can you hear us?

11 MS. EPHRON: It's not great. I can hear
12 you okay.

13 THE COURT: Okay. I'm sorry, I missed
14 the first part.

15 MR. GOSTIN: She said "not great," she
16 can hear you okay.

17 THE COURT: Okay. Is this better?

18 MS. EPHRON: Can you say something else,
19 your Honor?

20 THE COURT: Sure. It's been a lousy week
21 that we talked about before you joined us. Other
22 than that, how about clarity on those comments?

23 MS. EPHRON: I can hear you. It's not
24 very crisp.

25 THE COURT: Okay.

26 MS. EPHRON: But I'll manage.

27 THE COURT: Neither were the Irish, nor
28 Ole Miss. Okay.

1 Somehow the defendant's teams did well,
2 but we won't go down that road.

3 Okay. So over the weekend I posted a
4 message that I changed my mind and that only
5 admitted exhibits will go into the jury room,
6 quote/unquote, which is really the courtroom, while
7 the jury deliberates in the courtroom.

8 I understand there are some questions
9 about that. Ms. Ephron?

10 I think we've lost her.

11 THE CLERK: She's still on.

12 MS. EPHRON: Sorry, your Honor. I'm just
13 having a little bit of a hard time hearing about the
14 demonstratives?

15 THE COURT: Yes. I decided that my
16 practice of letting one or two demonstratives to go
17 into the jury room created a monster in this case;
18 so I just realized over the weekend that we'll go
19 with only admitted exhibits being given to the jury.

20 A moment ago I asked that a list of all
21 of the exhibits that have been either stipulated to
22 or I've ruled on, a list of those exhibits be
23 provided, and I gave an exhibit number for it.

24 Was there any issue or question by the
25 plaintiffs?

26 MS. EPHRON: Yes, your Honor. I think
27 the outstanding question is I believe that would
28 narrow down our exhibits to only the photo of Ezra

1 Clark. We just wanted to get clarity that that
2 would include sending the Canadian label back to the
3 jurors if that fell into the demonstrative category.

4 MR. TRAMMELL: I thought your Honor
5 admitted the Canadian label.

6 THE COURT: Candidly, I don't recall.

7 MR. TRAMMELL: I'm certain you did. Over
8 argument repeatedly to the contrary, I'm certain you
9 admitted it. To the extent that's not on the list,
10 we need to make sure that is added to our list.

11 MS. SAULINO: Your Honor, as you recall,
12 the Canadian label was shown as a response
13 Mr. Stekloff's use of the reference to Canadian
14 regulator's decision, and your Honor decided to
15 allow them to show the Canadian label in response
16 because of what it said.

17 But there was no discussion of admitting
18 it. There has been no discussion of admitting it.
19 And, in fact, what began this discussion about which
20 items would go back if demonstratives went back,
21 was, in fact, your Honor saying in response to
22 Mr. Trammell's question about whether the Canadian
23 label would go back.

24 The answer was it would go back as a
25 demonstrative. And that is when we said, if that's
26 the case, then we would prefer not to have any
27 demonstratives go back.

28 So that's how we got into this entire

1 discussion, your Honor, is the fact that the
2 Canadian label is a demonstrative.

3 MR. TRAMMELL: Just to be clear, it's not
4 a demonstrative. I didn't create it. The defendant
5 did. And we used it not only with Dr. Sawyer but
6 with Dr. Cooper regarding safety of the product.

7 So it's a document created by the
8 defendant. The Court did admit it, I think, twice
9 over defense objections. And it ought to go back.

10 THE COURT: So why don't you make an
11 argument why it should not be admitted?

12 MR. STEKLOFF: Your Honor, because the
13 regulatory documents aren't going back. Those are
14 all public records also. So, I mean, they can't
15 have it one way and not the other way. All of the
16 regulatory documents were shown. They are all
17 public records, and they're -- and so the same
18 foundation was laid or not laid. I don't understand
19 the difference.

20 And your Honor did say the reason the
21 Canadian label was going back was because it was a
22 demonstrative, that it was used.

23 So sending it back also under 352 runs
24 into all the same problems that I've already
25 discussed, so I won't repeat them, but it's a real
26 problem. It's an even bigger problem if we're going
27 to send back medical records, one photo of Ezra
28 Clark, a sympathetic photo, of course, and then the

1 Canadian label, as if the Canadian label has some
2 outsized importance in this case.

3 MR. TRAMMELL: So it's not a regulatory
4 document, your Honor. It wasn't made by a
5 regulator. It was made by Monsanto. And I
6 questioned not only Dr. Sawyer about it, but I
7 questioned Dr. Cooper about it because of
8 information related to safety in the document.

9 Your Honor has admitted it several times
10 now over these exact objections.

11 THE COURT: Okay. I don't believe I
12 admitted it. I allowed it to be referenced.

13 I have to admit, while we were going back
14 and forth about it during this exercise that I
15 created about demonstratives, I kept asking myself,
16 I wonder why the plaintiffs don't ask to admit it.

17 But it is different than the other
18 regulatory issues because it does not have potential
19 hearsay in other items. So over the defense
20 objection, the label is admitted.

21 Do we have an exhibit number so the
22 record is clear?

23 MR. TRAMMELL: 1121, your Honor.

24 THE COURT: 1121.

25

26 (RECEIVED IN EVIDENCE EXHIBIT NO. 1121.)

27

28 MR. STEKLOFF: In that case, your Honor,

1 we'd also ask -- we weren't planning on introducing
2 this -- that the photos of the Roundup bottle that
3 was found in the garage of the Clark and Crenshaw
4 home, which also has pictures of the label that was
5 on that bottle, be admitted.

6 THE COURT: What's the number?

7 MR. STEKLOFF: I'll have to find it.

8 THE COURT: Any objection?

9 MR. TRAMMELL: No.

10 THE COURT: Admitted.

11 MR. STEKLOFF: And then, your Honor, one
12 thing that came up during the discussion on Friday
13 is that in looking at some of the photos that we
14 were seeking to admit of the property, one of the
15 bases for your Honor's rulings was that there were
16 other photos that showed similar angles.

17 We would move to admit all of the photos.
18 And if we want to have a discussion about whether
19 some are cumulative or repetitive, that's fine; but
20 I don't think even the photos that your Honor
21 thought initially showed some of the angles that I
22 think were introduced through Ms. Clark's testimony
23 were admitted. So we would ask for those to be
24 admitted as well.

25 MR. TRAMMELL: So we have no objection to
26 the overhead photo. The other ones, I think
27 testimony has been clear that the property looks
28 very different now than it did at the time Ezra was

1 exposed. So we would continue to oppose those.

2 And it was my understanding that was the
3 grounds for your Honor not allowing them to go back.

4 THE COURT: I think I had both reasons at
5 different times.

6 So, one, we need a clearer record as to
7 what exhibits you're asking to be admitted. Two, as
8 far as the broad request just made, denied.

9 If you can bring me specific photograph
10 that you feel shows the layout or condition of the
11 property at the subject times and not cumulative,
12 I'll consider that.

13 MR. STEKLOFF: The only thing I would
14 just put on the record, your Honor, is that it
15 doesn't -- the documents have been authenticated, so
16 individuals who lived at the house or who visited
17 the house had discussed the fact that those pictures
18 reflect the house as it is now. No one is going to
19 argue that those pictures reflect the house as it
20 was in 2011 to 2016.

21 But they are authentic pictures. They
22 have been authenticated by witnesses with personal
23 knowledge of the photos themselves. And they were
24 introduced to the jury.

25 So understanding that if I get up there
26 and say, "And this is exactly what it looked like in
27 2011 to 2016," one, that would be a dumb argument;
28 and, two, Mr. Trammell could respond in his rebuttal

1 and say, "That's not true, you heard that."

2 I don't understand why they shouldn't be
3 admitted exhibits, but we will get you all the
4 numbers. I have some of them, but we'll just get
5 you copies of the photos.

6 THE COURT: Well, part of my ruling also
7 is relevance and 352 as to cumulative.

8 MR. STEKLOFF: Right, and I would argue
9 just for the record that the relevance --
10 understanding the cumulative argument that we might
11 not need numerous photos of the same area, the
12 relevance argument is that the photos still do show
13 the areas and the size of the areas where weeds
14 could have grown, even if the pictures now don't
15 reflect the weeds that were there because grass
16 isn't there or the property has changed.

17 Including significantly, I think, the
18 patio. There's been a significant amount of
19 testimony that the primary area where Ms. Clark,
20 Mrs. Crenshaw, and Mr. Crenshaw and the gardener
21 sprayed was around the patio surrounding the pool.

22 So seeing those areas, including seeing
23 the cracks where weeds grow up, is -- I don't think
24 that's a 352 argument. That is important
25 information for the jury to be able to look at to be
26 able to contemplate that argument.

27 THE COURT: Okay. Anything else?

28 /////

1 MR. TRAMMELL: No, your Honor.

2 THE COURT: Okay. Just to look at the
3 timing. What is your best estimate of your closing?

4 MR. TRAMMELL: I haven't timed it. Under
5 45 minutes, I'm sure.

6 THE COURT: Okay.

7 MR. STEKLOFF: I'm hoping to be under an
8 hour, but it's probably going to be an hour, give or
9 take ten minutes.

10 THE COURT: Okay. No problem. We'll
11 probably take a break after defense closing and any
12 rebuttal, even if it's short.

13 MR. TRAMMELL: Short.

14 MR. STEKLOFF: How does lunch work? Are
15 they excused like normal for lunch and they go off
16 for an hour and a half and they come back?

17 THE COURT: Yes. In part because Maria
18 has to be with them -- or not with them, available
19 throughout.

20 So it looks pretty clean, but obviously
21 you need to take anything that relates to the case
22 with you: notebooks, notes, et cetera. They'll
23 have free access to the entire room.

24 THE CLERK: 9511 is already used, your
25 Honor.

26 THE COURT: Okay. What was going to
27 be -- what's going to be 9511?

28 THE CLERK: The updated jury

1 instructions.

2 THE COURT: So the updated jury
3 instructions would be 9513.

4 What did I say 12 is going to be?

5 THE CLERK: The list of marked exhibits.

6 THE COURT: Okay.

7 So just so the record doesn't get too
8 confusing, 9512 will stay as the list of exhibits.

9

10 (RECEIVED IN EVIDENCE EXHIBIT
11 NOS. 9512 and 9513.)

12

13 THE COURT: The revised jury instructions
14 will be 9513, not 9511.

15 Okay.

16 MR. STEKLOFF: Your Honor, on the
17 materials, sorry, we'll obviously remove all of our
18 paper. We're happy -- Mr. White has some boxes sort
19 of under the gallery. We are happy to remove those.
20 I just want to flag it might take a few minutes to
21 remove those.

22 THE COURT: Okay. Well, it's going to
23 take a day for you to remove all your Post-its.

24 MR. STEKLOFF: That's for sure. I'm
25 going to go through Post-it withdrawal whenever this
26 ends.

27 THE COURT: Okay. I'm going to step off.
28 We'll get started as soon as all the jurors are

1 here.

2

3

(OFF THE RECORD; BRIEF RECESS

4

ENSUED.)

5

(THE FOLLOWING PROCEEDINGS WERE

6

HELD IN OPEN COURT OUTSIDE THE

7

PRESENCE OF THE JURY:)

8

9

THE COURT: Let's go on the record. Do

10

we have the exhibit number?

11

MS. PALMER: It's 3900.

12

THE COURT: So we're on the record

13

outside the presence of the jury discussing 3900.

14

Plaintiffs --

15

MR. TRAMMELL: Like to move it into

16

evidence, your Honor.

17

THE COURT: Any objection?

18

MR. STEKLOFF: Yes, we'll object, your

19

Honor, as -- not that it's not a real photo, but

20

that it has no bearing on what the jury needs to

21

decide in this phase.

22

There is no dispute that Mr. Clark was

23

healthy at one point and that he unfortunately

24

developed cancer. But it just has no relevance to

25

the causation issue that the jury needs to decide.

26

THE COURT: Anything for the record?

27

MR. TRAMMELL: No.

28

THE COURT: Since he did not come in to

1 testify, I think a picture of him is relevant. It's
2 admitted.

3

4 (RECEIVED IN EVIDENCE EXHIBIT NO. 3900.)

5

6 THE COURT: Anything else about exhibits?

7

8 MR. STEKLOFF: No, we're collecting the
9 photos, your Honor. We had to go back and -- your
10 Honor looked at four photos that were used during
11 Dr. Al-Khatib's testimony. We're going back just to
12 identify the photos that were used during
13 Ms. Clark's testimony. Once we have those, we'll
14 look at all of them, we'll meet and confer with
15 plaintiffs and let you know where we stand, but we
16 can do that quickly.

17 THE COURT: Okay.

18

19 (OFF THE RECORD; BRIEF RECESS
20 ENSUED.)

21

22 (THE FOLLOWING PROCEEDINGS WERE
23 HELD IN OPEN COURT IN THE PRESENCE
24 OF THE JURY:)

25

26 THE COURT: Okay, we're on the record
27 with the presence of the jury. Good morning,
28 everyone.

29

JURORS COLLECTIVELY: Good morning.

30

THE COURT: Thank you so much for your

1 flexibility, your patience and so forth. I think --
2 I understand Judge Kuhl told you that I had some eye
3 issues, and I do want to take the opportunity that
4 if you get any symptoms, don't play around with
5 them. When I woke up on Wednesday morning, I had
6 some flashing light and black dots floating around
7 and some blurriness.

8 I went to Dr. Google and read that there
9 is a -- those were the classic signs of a detached
10 retina, which is, I think, a very serious thing.

11 So after we dealt with all the morning
12 stuff, I went to the doctor's. And the optometrist
13 referred me to a specialist, and I only had a tear,
14 a torn retina. And the doctor said if I had waited
15 just one day, it probably would have detached.

16 And so I spent the week -- long weekend
17 sitting, watching a lot of football, more than
18 usual, believe it or not, and Yellowstone.

19 If you've not seen the show Yellowstone,
20 I would highly recommend it. In fact, that was the
21 only thing good to come out of this thing.

22 And when we asked for that November date,
23 the last thing I thought it would be me that would
24 cause it, but nonetheless.

25 But, again, way TMI, too much
26 information, but a serious message that be a good
27 patient and go see a doctor when you're supposed to.

28 So with that, we are going to now have

1 closing arguments.

2 Mr. Trammell.

3 MR. TRAMMELL: Is your Honor going to
4 read the instruction first, or are we doing closing?

5 THE COURT: Bear with me. The
6 instructions that --

7 MR. TRAMMELL: I just didn't know what
8 you preferred.

9 THE COURT: The last, final instructions
10 I'll give to them after closing, when they go into
11 the jury room.

12 MR. TRAMMELL: All right.

13
14 (CLOSING STATEMENTS ON BEHALF OF
15 PLAINTIFFS).

16
17 MR. TRAMMELL: Good morning. On behalf
18 of my client, Ezra Clark, his mother, and the entire
19 family, we thank you for serving on our jury.

20 We know you didn't really have a choice,
21 but we know that you took it seriously, and everyone
22 obviously paid attention the entire trial, and we
23 appreciate it.

24 So this is closing argument. It's the
25 last time I get to talk to you, that the lawyers get
26 to talk to you before you begin your deliberations.
27 We're going to get out of here, and you're going to
28 have the room.

1 And when you begin deliberating, you're
2 going to have a simple question to answer, short
3 question. It's: Was Ezra Clark's exposure to
4 Roundup a substantial factor in causing his
5 Burkitt's lymphoma?

6 So it's a short question, but there is a
7 lot there, so I kind of want to go through it,
8 through the first half first, and then we'll do the
9 second half.

10 And, you know, there are some kind of
11 strange terms there, some legal terms, but I think
12 when we review the evidence and we talk about what
13 the evidence is in this case, it's going to be easy
14 for you to answer these questions. I think it's all
15 going to be pretty simple when you start talking
16 about it.

17 So for the first part, we're going to be
18 asking you at the end of the case for a "yes" answer
19 to this question.

20 So let's talk about Ezra's exposure to
21 Roundup. Ezra was born in May 2011, actually was
22 the last of Ms. Clark's kids. Grew up as you've
23 seen -- was born, actually, and lived in this house
24 when he was born, his grandma's house, grandparents'
25 house, out in Walnut.

26 And right away Ezra was a little bit
27 different. You've heard by now that he has autism.
28 They didn't know it when he was a little boy, he was

1 just really sensitive to things. He would have a
2 lot of tantrums, it was difficult to find things for
3 him to eat, wouldn't wear clothes, but was, you
4 know, kind of unmanageable as a little baby.

5 So, you know, Destiny, his mother, would
6 try to get him out of the house as much as she
7 could. It seemed to soothe him being outside.

8 And when he was about six months old --
9 you know, anybody that's been around little babies
10 knows that when they're just born, you're either
11 carrying them or they're asleep. But when he was
12 about six months old, he could finally sit up in a
13 little bouncy seat that we've all heard about, and
14 she was able to put him in that bouncy seat and have
15 her hands free.

16 So they would go outside. She'd put Ezra
17 in the little bouncy seat right at her feet, and
18 they would play, and she would try to help her
19 parents out by doing yard work outside.

20 Ezra's mom was pulling weeds, spraying
21 Roundup from the time he's six months old, which is
22 November of 2011, and would go out there, as she
23 told you at trial, just about every weekend.

24 You know, Ezra was making noise, he was
25 having his autism kind of tantrums, and to give her
26 folks a break on the weekends, she would take the
27 kids outside.

28 I think you've heard everybody testify

1 Ezra's mom just loves taking the kids outside, and
2 they would go out there and play, she'd spray
3 Roundup, pull weeds. But, you know, just play
4 generally, do the kinds of things that little kids
5 and their mom do outside.

6 And she did that just about every weekend
7 up until they moved out of the house in August of
8 2012. Every weekend, out spraying Roundup. Ezra
9 right at his mom's feet.

10 Okay. So in August of 2012 they moved to
11 Yucca Valley. Ezra's mom and dad and all the kids
12 move out to Yucca Valley to live with Ezra's dad for
13 a year. It only lasted a year because,
14 unfortunately, it didn't go very well. Things
15 didn't work out between Ezra's parents, and they
16 moved back to the house in Walnut. Okay? In August
17 of 2013. All right.

18 So in August of 2013, they pretty much
19 pick up where they left off. Ezra is -- he's two at
20 this point, a little over two. Still not walking.
21 I think you've heard that, because of his autism,
22 Ezra kind of developed slowly. So he could,
23 obviously, sit up. But he would sit at his mom's
24 feet and play in the mud, play with his little
25 trucks, and his mom would spray Roundup, pull weeds,
26 and just play generally in the backyard.

27 You've heard testimony from Destiny that
28 Ezra would sit at her feet, he'd roll his trucks

1 through the ground. And, unfortunately, one of the
2 things with autism is he puts everything in his
3 mouth. So, you know, she'd be spraying, he would be
4 rolling his trucks around, putting it -- she tried
5 to stop him, obviously, but difficult to keep him
6 from putting everything in his mouth when he was a
7 little boy.

8 So you heard from Destiny she would --
9 you heard from Ezra's mom that she would be out
10 there just about every weekend, and most of the
11 week, to be honest, but just about every weekend,
12 spraying Roundup, pulling weeds, while the kids
13 played, Ezra clinging to her right down at her feet.
14 All right? And that was the consistent testimony
15 you heard from everybody.

16 So this is Ezra in January of 2016. We
17 all saw this picture. One thing to know about Ezra
18 is he's just obsessed with space and always has been
19 since he was a little boy. You see he's got a NASA
20 shirt on, right in front of the rocket ship. That's
21 his big sister there. Wants to be an astronaut when
22 he grows up, still does. Always loved space.

23 Not long after this Ezra was -- wasn't
24 eating, and he, you know -- it was just unusual for
25 Ezra. He couldn't keep anything down, had a
26 stomachache, he was constipated, and so his mom took
27 him to the doctor.

28 And at first they just tried flushing him

1 out. They thought, you know, he's just constipated,
2 he's having a stomach issue. And it didn't work.
3 He still couldn't eat. His favorite food was
4 waffles. He asked his mom to make him some waffles,
5 and he just couldn't do it.

6 So they had him scanned, and it turned
7 out he had a lymphoma. He had a big tumor in his
8 stomach. It was diagnosed immediately as a Stage 3
9 Burkitt's lymphoma.

10 This is an extremely aggressive cancer,
11 okay. Once it starts, it develops very fast, and it
12 can kill you very quickly if you don't catch it in
13 time.

14 It's also extremely rare, thank goodness,
15 in the United States. Only about 350 kids a year
16 are diagnosed with Burkitt's lymphoma. I can't do
17 the math on what that percentage is, but that's the
18 chance that any kid in this country will get
19 Burkitt's lymphoma.

20 I think when I sit down, Monsanto's going
21 to tell you again what a typical cancer this is and
22 how typical Ezra's Burkitt's lymphoma is.

23 Remember that that is the odds of any kid
24 in the United States this year getting Burkitt's
25 lymphoma, which, thankfully, extremely remote
26 chance.

27 So I think one of the main things you're
28 going to hear from Monsanto in their closing

1 argument is about Destiny's difficulties at her
2 deposition, okay, and her inability to remember
3 exactly when it was that she sprayed Roundup during
4 the deposition.

5 What I want you to remember, if that
6 comes up during deliberations, is that she swore to
7 this exact timeframe, okay, November of 2011 to
8 August of 2012, then August of 2013 up until Ezra
9 got sick in February of 2016, swore to it under oath
10 five times before her deposition. Always the exact
11 same, okay? Same timeframe. Same month. Same
12 year. The year in Yucca Valley. And then back to
13 the Walnut house where she was out there every
14 weekend, spraying Roundup, doing yard work, Ezra at
15 her feet, until he got sick in November -- or,
16 excuse me, February of 2016. See, I messed it up.

17 So we did all this to prepare this case
18 for trial. The defendants were asking about
19 exposure. They wanted to know when Ezra was
20 exposed. We got the information from Ezra's mom.
21 That timeframe is exactly what she told me the first
22 time I asked her about it.

23 We responded to the company, swore under
24 oath that this was true five times. But we always
25 knew that Ezra's mom was going to have to give a
26 deposition in this case. It was her that was doing
27 the spraying. Ezra was obviously a little baby. He
28 doesn't remember anything about this case,

1 thankfully.

2 So the challenge was going to be --
3 remember, when we started this case, I told you this
4 was a unique situation because not only did Ezra
5 have cancer, but his mom is dying of cancer.

6 In 2019, her cervical cancer metastasized
7 to her brain, okay, and she had to have brain
8 surgery. She's had heavy radiation three times to
9 her brain. She developed cerebral lesions, and
10 then, you know, more radiation, you can see. She's
11 been hospitalized. And since that time has been on
12 six medications that cause brain issues, okay.

13 And so, you know, when you communicate
14 with Ezra's mom, she can communicate with you and
15 she can give you information if you are very clear
16 with her, ask her very simple questions, don't put
17 any pressure on her, and give her time to answer,
18 okay? She's had heavy damage to her brain because
19 of her cancer treatment. And so if you are direct
20 and simple and you're patient with her, she can give
21 you information.

22 I think you saw when I was questioning
23 her on the stand and asked her very simple
24 questions, she was able to communicate information
25 back to me. She could process the question, take
26 the time, and answer it back for me.

27 But we knew this was going to be a
28 challenge because you've seen how Monsanto is with

1 even expert witnesses, okay? They are very
2 aggressive in their questioning.

3 So we knew that they would send a team of
4 professional trial lawyers to interrogate her, and
5 that's what they did. Her deposition -- you know,
6 if you think about it, if you ask somebody how long
7 have you been exposed to Roundup, it's pretty
8 simple. You can say: When did you start spraying?
9 When did you stop spraying? How long did you spray,
10 and what did you wear? It's about that simple,
11 okay.

12 Instead, over the course of about
13 fourteen hours and three days, they interrogated
14 Ezra's mom in a conference room out in Pomona, okay.

15 And she did exactly what I knew she was
16 going to do. She didn't understand the questions.
17 She made a lot of mistakes. I think you're going to
18 see video clips of her making mistakes from the
19 deposition. I'm sure you're going to hear them read
20 the testimony.

21 It's just you can't communicate with
22 Ms. Clark that way. She doesn't understand
23 complicated questions. She doesn't understand the
24 questions from professional interrogators. You have
25 to ask her things directly and simply. And she'll
26 communicate honestly with you, if she can.

27 But this lady, who has had this brain
28 damage, who is dying of cancer, if you attempt to

1 make her say something that's incorrect, it's really
2 easy, okay? It's very easy to get Ms. Clark, Ezra's
3 mom, to say things that aren't true and aren't
4 correct if you are attempting to get her to do that.

5 And they did. And she did. And made a
6 lot of mistakes.

7 But when you're back in the room --
8 usually you go to a jury deliberation room. This
9 time you're going to stay here.

10 But when you're deliberating and we're
11 all out of here, if anybody says, you know, Ezra's
12 mom made a lot of mistakes in that deposition, she
13 said things that were inconsistent, she said
14 different things about when she sprayed compared to
15 what she said in her responses up to that time and
16 what she said in trial -- and remember, at trial she
17 said exactly the same thing she'd been saying every
18 time leading up to her deposition, okay? At trial
19 her testimony was completely consistent with those
20 five sworn responses we talked about earlier, okay?

21 Then the last word on the deposition is
22 this, okay? The Court told you this is part of her
23 deposition. So if someone said she made a lot of
24 mistakes in that deposition, remind them, the last
25 words, sworn under oath, is this, and it's the exact
26 same timeframe it's been throughout this case, it's
27 November of 2011, when Ezra was six months and he
28 could sit up on his own, go out in the backyard and

1 start spraying every weekend, up until August of '12
2 when they moved to Yucca Valley.

3 They were still outside all the time in
4 Yucca Valley, but they lived in an apartment, and
5 she didn't have to do any yard work.

6 They moved back to the Walnut house to
7 live with the grandparents in August of 2013,
8 sprayed every weekend until Ezra got sick in
9 February 2016.

10 You see it says right there, just that
11 exact same timeframe with the last spraying being in
12 February of 2016, okay?

13 So when they show you video clips from
14 the deposition, keep in mind, this is the last word
15 on her deposition testimony, okay? And it is
16 perfectly consistent with everything she said up
17 until this time.

18 She's been through a lot, obviously, and
19 went through a lot in that deposition.

20 On Ezra's behalf, I ask you to please not
21 hold his mother's brain cancer against him, please.

22 So you don't have to just take her word
23 for it, which is kind of the fortunate thing here.
24 And I think this is going to make it a lot easier
25 for you. We also have the testimony of his family
26 members. That's Ezra and his two big sisters and
27 his big brother, Jacob, and obviously his
28 grandparents, Chuck and Lissett.

1 So, remember, Grandma got up on the stand
2 and said they've always been very close, he's
3 clingy, and she personally bought a bottle a week of
4 the one-handed, smaller Roundup sprayer.

5 I can tell you that, you know, I'm sure
6 you've had this experience, in every house there is
7 usually somebody that's responsible for making sure
8 you always have the stuff you need. In this house,
9 in the Crenshaw house, it's Ms. Crenshaw. So she's
10 buying the toilet paper when they run out, buying
11 the cereal when they run out, the milk when they run
12 out, and she would check the Roundup out on the back
13 porch -- it's a step outside the back door -- to see
14 if they needed more.

15 And when Destiny was there, they were
16 constantly running out of the Roundup. And so she
17 would go buy a bottle a week to replace it so that
18 Destiny could spray it on the weekend.

19 Also testified that Destiny was out there
20 doing the yard work, spraying the Roundup until Ezra
21 got sick in February of 2016.

22 Then there's Chuck. Remember, Chuck said
23 he bought a couple of the bigger bottles a year for
24 him to spray, but that his wife, Lissett, would buy
25 the smaller bottles.

26 Otherwise, Chuck was just off, when they
27 were at the store, doing husband stuff, just walking
28 around the store, picking up stuff and dumping it in

1 the buggy. But it was Lissett who was buying the
2 Roundup. Testified consistently she would buy about
3 a bottle a week while Destiny and Ezra were living
4 at the house.

5 And then the big kids. Remember in
6 opening argument, opening statements, I told you the
7 big kids were -- you know, in a family with little
8 kids and big kids, the big kids are off usually just
9 doing their own thing while the little kids are with
10 Mom. And that's how it was here.

11 So Mia testified she was over at her
12 dad's every weekend; so she wasn't around to see the
13 yard work and the spraying.

14 Jacob, you know, pretty much the same
15 thing, said the little kids were outside with Mom
16 most weekends. Jacob was either in his room playing
17 guitar or playing video games, and I can tell you
18 not much has changed since then. That's the same
19 thing Jacob's doing at the house to this day.

20 So I think Monsanto is also going to tell
21 you that when Ezra's mom initially got sick in 2015,
22 that she had about six months of treatment, and
23 that's true. No question about that. But remember
24 she told you, you know, it wasn't a walk in the park
25 getting cancer and having chemotherapy, but it
26 wasn't nearly as bad as the second time. She was
27 able to tolerate it. She was still laid up
28 sometimes, but for the most part was able to

1 tolerate it. May have sprayed a little less, but
2 was still having to get outside with the kids.

3 So, you know, as the single mom and the
4 caretaker for these two little kids, she didn't have
5 the option to just lay in bed, all right. She had
6 to take care of these kids. Her mom was still
7 working. She couldn't just feel sick and take care
8 of herself. She had to take care of other people,
9 and she did.

10 It's even more so because of Ezra's
11 autism, all right. One of the features of his
12 autism is he has to do the same thing over and over
13 again. He has to have a routine. So she didn't
14 have the luxury of just laying around. She had to
15 get up and take care of Ezra, which she testified
16 she did.

17 She said she felt good most of the time.
18 Right around treatment time she felt not great, but
19 for the most part, she said she felt pretty good and
20 was able to keep doing the yard work, and she did.

21 Get the kids out in the yard to play,
22 kept doing the yard work, which is exactly what she
23 said here in trial, and it's exactly what her mother
24 said in trial. She was, you know, not great, but
25 good enough to get out and take care of the kids in
26 the backyard, spray the Roundup, pull the weeds, try
27 to help out where she could.

28 And all of this information was taken and

1 evaluated by our toxicologist and exposure expert,
2 Dr. Sawyer, who told you that based on Ezra's -- the
3 facts of Ezra's exposure, that -- remember he said,
4 Dr. Sawyer said, that the studies show that when you
5 spray Roundup, most of what you get on you is below
6 the waist.

7 Okay, so since that's where Ezra was,
8 below his mom's waist, usually at her feet, he was
9 getting most of the exposure from the spray, okay?
10 So even though, you know, it's only every weekend,
11 he's getting a heavier exposure because of where he
12 is. And the kids get full-body exposure if you look
13 at the studies.

14 It was even worse because of Ezra's
15 sensory issues. He couldn't wear clothes, so he was
16 out there in a diaper, T-shirt, no socks, no shoes,
17 sitting on the ground as the Roundup coming back.

18 And to be conservative -- you heard
19 Dr. Sawyer say he likes to try to be extremely
20 conservative in his estimates -- he only used every
21 other weekend.

22 So there were times, when it was winter,
23 for example, the weather was bad, or the time when
24 she was going through her first cancer treatment,
25 that Ezra's mom said she sprayed every other week.

26 So instead of using every weekend during
27 the summer and every weekend when she -- that she
28 testified she normally sprayed on, he used every

1 other weekend for the entire period.

2 So he attempted to be very conservative
3 in estimating the amount of exposure and came up
4 with at least 10.8 eight-hour-exposure days, which
5 is a standard that's used in his field.

6 And for Dr. Sawyer and for the
7 professionals that evaluate exposure, it's about the
8 time during which you're exposed, not about the
9 amount of Roundup that comes out of the bottle.
10 It's the time you're out there being exposed to
11 Roundup.

12 So when you look at the time that Ezra
13 was exposed to Roundup, it's over the heaviest
14 exposure period in the professional applicator
15 studies.

16 And in those studies, it's shown that if
17 you spray for over 10 days, you more than double
18 your risk of getting non-Hodgkin's lymphoma. Okay?
19 And that's professional applicators who are wearing
20 PPE. It's not little babies in diapers, sitting
21 below the waist, getting most of the exposure, okay?

22 And so Monsanto's going to stand up, I
23 think, and tell you, well, he just wasn't exposed to
24 that much Roundup. He didn't get that much Roundup
25 exposure on him. Not enough to be dangerous.

26 Remember this document. It's the
27 Canadian label. Not the one you see here in the
28 U.S. None of this information has ever been on the

1 U.S. label. But in Canada, okay, Monsanto tells its
2 own customers to wear rubber gloves, to wear PPE;
3 and if you get it on your skin one time, one drop on
4 your skin one time, wash your skin for 20 minutes
5 and call Poison Control. Okay?

6 So they're going to tell you this little
7 boy wasn't exposed to enough Roundup to be dangerous
8 to him; but in Canada they tell people, if you get
9 it on your skin once, to call Poison Control. Okay?

10 You're going to have this with you back
11 in the jury room; feel free to refer to it.

12 And so when you're deliberating, if
13 someone is on the fence about whether he had enough
14 Roundup, please remember what Monsanto tells its own
15 customers in another country about getting Roundup
16 on your skin, okay?

17 So that's Ezra's exposure. We've talked
18 about the exposure period. She's testified
19 consistently to it. It's the last word on the
20 deposition. We know what the exposure period was.
21 We know how often they were out there. We know that
22 he was getting most of the spray when she sprayed.
23 Okay?

24 So the answer at least for exposure is
25 going to be a "yes." I mean, I think the evidence
26 is pretty clear that Ezra was exposed to a
27 sufficient amount of Roundup to raise his risk of
28 non-Hodgkin's lymphoma.

1 So let's talk about the second part of
2 the question, whether the Roundup exposure was a
3 substantial factor in him developing or him getting
4 non-Hodgkin's lymphoma.

5 And I want to take a step back and talk
6 about just the medical aspects of this really quick.

7 So all lymphomas come from cancer in the
8 lymphatic system, all right? So the lymphatic
9 system just kind of cleans out your blood. It's
10 part of the body that its job is to find toxins in
11 your bloodstream and clean them up to keep them from
12 causing you other health issues.

13 One of the things that the lymphatic
14 system does, though, is it also cleans up around the
15 skin. So we know that Roundup is designed to
16 penetrate plant surfaces. It also penetrates the
17 skin, okay?

18 So if you get Roundup on your skin,
19 which, you know, is the glyphosate plus the
20 surfactant plus the formaldehyde, there are a
21 variety of ways for that to get down to your
22 lymphatic system.

23 One is through sweat ducts, which are
24 even more active in the heat. The other is through
25 the just breaking through the brick and mortar of
26 the skin surface. It can also get down through hair
27 follicles, down to that area right there.

28 And if it does, your lymphatic system

1 will suck it up, suck it down into your lymphatic
2 vessels, where the Roundup is now operative, has
3 access to your lymphocyte cells and your lymphatic
4 system, and can cause genetic damage.

5 And if it does that, the result can be a
6 non-Hodgkin's lymphoma.

7 So let's talk about how that process
8 happens. So once you have the genetic damage, your
9 body is going to try to repair it, okay? It's not
10 going to get everything. If the body was able to
11 repair all genetic damages, there would be no
12 cancer, all right.

13 So some damage is not going to be
14 repaired and it's going to mutate, all right. That
15 means a damaged cell, a cell that's had genetic
16 damage, has made a copy of itself and then continues
17 to do so. And if it continues to do so, it will
18 result in a cancer, okay?

19 All cancer comes from genetic damage, all
20 right? It is the root of every single cancer we
21 have. We can't have cancer without it. So genetic
22 damage, DNA damage is really the key. If chemicals
23 cause DNA damage, they can cause cancer, all right.

24 So research on this issue, on Roundup and
25 cancer, has been growing over the years. And in
26 2015, the World Health Organization's International
27 Agency for Research on Cancer -- we've been calling
28 it IARC -- decided to look at glyphosate, decided to

1 look at Roundup to see whether it could cause
2 cancer.

3 And you've -- you know, we've talked
4 about this. We had Dr. Jameson, right there, he
5 came and testified at trial.

6 And remember, it's the leading cancer
7 research experts in the world, okay? That's who
8 comes to IARC. They spend six months of their own
9 time, unpaid, researching this issue, looking at all
10 of the scientific information on whether the
11 chemical might be associated with cancer.

12 Then they all get together for a week and
13 meet and discuss this issue and try to figure it
14 out. And they did this with glyphosate, with
15 Roundup. And the leading cancer researchers in the
16 world decided it was more likely than not that human
17 exposure to Roundup causes non-Hodgkin's lymphoma.
18 Okay?

19 They haven't changed their mind. If
20 anything, they believe it's even stronger now.

21 So let's look at who was there. So one
22 of the people who was there was a representative of
23 the U.S. EPA, okay? Again, when I sit down,
24 Monsanto's going to stand up and tell you the EPA
25 says Roundup is safe. We're going to talk more
26 about that in a second.

27 Remember, the EPA sent a representative
28 to IARC who voted in favor of the cancer

1 classification, voted that Roundup is more likely
2 than not to cause non-Hodgkin's lymphoma. Okay?
3 Don't forget that.

4 Somebody says, "Hey, the EPA says it's
5 safe," remind them, "No, they don't. The EPA sent a
6 representative to IARC who voted, along with
7 everyone else in a unanimous vote, that Roundup
8 causes cancer." Okay?

9 Also there, Dr. Jameson, came and
10 testified. And then Aaron Blair was the overall
11 chair. We're going to get back to him. He kind of
12 has some significance in another part of the case,
13 but I want you to remember him. He's actually at
14 the National Cancer Institute. Was their overall
15 chair. Also voted in favor of Roundup being a human
16 carcinogen.

17 So I told you they looked at all the
18 available scientific information before they made
19 their decision. We talked about these animal
20 studies; that, you know, you can't ethically test a
21 possible carcinogen on people, so they test them on
22 animals.

23 When glyphosate, the active ingredient in
24 Roundup, was tested on animals, it caused all kinds
25 of tumors. And this is just the rats.

26 But when you look at the mice -- and we
27 talked about mice sharing 95 percent of DNA with
28 humans. It seems weird, but it's true. We've got

1 similar lymphatic systems to mice. That's why they
2 use mice for studying cancer. And they particularly
3 use mice when they're trying to figure out if a
4 treatment is useful for lymphoma, again, because our
5 lymphatic systems are so similar.

6 And a really interesting thing happened
7 in every single mouse study, all right? Every
8 single mouse study, there was a malignant lymphoma,
9 all right. Every single time they tested the active
10 ingredient in Roundup in mice, it produced malignant
11 lymphoma, all right.

12 And so they looked at this. You're
13 starting to see how they got to their decision that
14 Roundup causes cancer. So they looked at this.

15 They also looked at all the
16 epidemiological studies. And remember that's when
17 you take people who are out in the field, using
18 Roundup, and you see if they're more likely to get
19 cancer than people who aren't. That's what an
20 epidemiological study is.

21 And when you look at all the
22 epidemiological studies, everything with a box to
23 the right of that blue line means that the result of
24 the study was that people using Roundup were more
25 likely to get non-Hodgkin's lymphoma, okay? So
26 that's the human data.

27 We've seen the animal data producing the
28 malignant lymphomas; this is the human data where

1 they're going out and looking at people who are
2 actually spraying Roundup to see if they are getting
3 non-Hodgkin's lymphoma. In nearly every single
4 study, more people using Roundup get non-Hodgkin's
5 than people who don't.

6 They also looked, again, at the, you
7 know -- the DNA laboratory studies where you take
8 cells and you see if exposure to the product can
9 produce DNA damage. Because DNA damage, again, is
10 the root of every single cancer. So if you have a
11 chemical that's causing DNA damage, you know, you
12 might have a potential carcinogen on your hands.

13 And there's just no debate that Roundup
14 causes DNA damage. So you obviously heard it from
15 my expert. IARC said it does. Their expert says it
16 does, okay?

17 Remember Dr. Cooper. Very nice person.
18 Seemed like a good doctor, just didn't know much
19 about Roundup, okay. First time testifying, just
20 didn't know an awful lot about Roundup.

21 But she did know that Roundup causes DNA
22 damage and that it is genotoxic. This is their
23 expert admitting that.

24 And so when you look at DNA -- sorry, go
25 back. So this is my DNA damage visual I've been
26 using. It's got a lot of different kinds. That's a
27 single-strand break. That's a lot of different
28 kinds of DNA damage. All these types of DNA damage

1 can cause non-Hodgkin's lymphoma. Okay. Any kind
2 can.

3 But only this one, the double-strand
4 break, can cause Burkitt's lymphoma. All right?
5 All Burkitt's lymphoma, which Ezra had, comes from a
6 DNA double-strand break. Okay? Both of our experts
7 admit this.

8 So I asked our testifying expert,
9 Dr. Fish, who was via Zoom, "Do they all come from
10 double-strand breaks, all cases of Burkitt's?"

11 "Yes."

12 Dr. Cooper, their expert, admitted, yes,
13 every single Burkitt's lymphoma is caused initially
14 by a DNA double-strand break. All right.

15 And the reason they say this with such
16 confidence -- or excuse me.

17 And I think one of the things that's
18 going to make this a lot easier for you is that
19 every single time that human cells have been tested
20 in the DNA lab with Roundup, they have produced
21 double-strand breaks. Okay? Every single time.

22 There has never been an independent study
23 of Roundup on human DNA where they did not produce
24 double-strand breaks.

25 And, again, all Burkitt's lymphoma comes
26 from double-strand breaks, okay?

27 And so you're going to be asked whether
28 Ezra's exposure to Roundup was a substantial factor.

1 And there's actually a definition. It's in your
2 instructions. You're going to have them back there
3 with you. You may want to go look at them.

4 But "substantial factor" just means, did
5 it contribute to the Burkitt's lymphoma? Did
6 Roundup exposure contribute to his Burkitt's
7 lymphoma? It doesn't have to be the only cause,
8 okay. And I think that's important because the
9 studies we just looked at, they show that Roundup
10 does three different things when it gets to your
11 lymphocyte cells, okay.

12 When it gets into your lymphatic system,
13 it can do three things: It can kill cells, which is
14 bad enough; but it also causes the exact DNA damage
15 that results in Burkitt's lymphoma; it also, in a
16 variety of ways, devastates your body's ability to
17 repair DNA damage.

18 Okay. So it's not only causing the DNA
19 damage, but it's preventing you from repairing it
20 over time, okay. Every single time you're exposed
21 to Roundup, it's doing all three of these things,
22 all right?

23 And the bottom one is cumulative, okay?
24 So the first time you get exposed to Roundup, it may
25 cause a DNA damage, but your body still has full
26 capacity to repair that DNA damage. It hasn't been
27 damaged enough yet. And you might fix it and not
28 result in a cancer, okay?

1 But over time -- remember, we've got our
2 helpful chart here. We've got our DNA damage event,
3 right? Your body naturally can repair most of that,
4 all right, unless something happens that affects
5 your DNA repair mechanisms. All right?

6 So now, if you were exposed to something
7 that makes you less able to repair DNA damage, you
8 get DNA damage, it is far more likely that it can
9 result in cancer. Okay?

10 And the reason that's important is
11 because when deciding whether Roundup is a
12 substantial factor, keep in mind, all right, both
13 the oncologists who testified told you that
14 Burkitt's lymphoma develops quickly, all right? The
15 exact DNA damage that caused Ezra's Burkitt's had to
16 have happened within a year of his diagnosis. So
17 the DNA damage the double-strand break, has to have
18 happened in the last year.

19 MR. STEKLOFF: Objection, your Honor.

20 THE COURT: You want to approach?

21 MR. STEKLOFF: Yes.

22

23 (SIDEBAR CONFERENCE HELD REPORTED
24 AS FOLLOWS:)

25

26 MR. STEKLOFF: I realize I caught you off
27 guard, your Honor, but he's arguing Dr. Fish's
28 theory that you excluded. So I don't know how we

1 can go down the path now that there was exposure,
2 but that the DNA break had to be in the last year.

3 We were precluded from cross-examining
4 Dr. Fish about that. We were precluded from arguing
5 it. And now he is arguing it in closing argument,
6 and it's an argument that's been precluded.

7 Their case is that he was exposed to
8 80 hours, and it was the 80 hours cumulative
9 exposure that caused the cancer. He needs to stick
10 with the rulings in this case.

11 MR. TRAMMELL: They did cross him on
12 that. They said, "You're not relying on the first
13 two years of exposure"; he said, "I am," because the
14 damage is inhibiting the repair mechanism.

15 THE COURT: Right, and that's fine.
16 That's free game. But you did say just now "exact
17 DNA damage caused Ezra's -- had to have happened
18 within a year of his diagnosis."

19 MR. TRAMMELL: I thought Dr. Cooper said
20 that too.

21 THE COURT: No, I don't recall her.

22 MR. TRAMMELL: I thought she did. That's
23 the only reason I did it, but I can move on.

24 MR. STEKLOFF: We would move to strike
25 just the last part of the argument, your Honor.

26 THE COURT: I'll tell the jury to
27 disregard this one sentence, and please continue.

28 /////

1 MR. TRAMMELL: Can you read the sentence
2 you're telling them to disregard?

3 THE COURT: Yes. I'm going to read it
4 verbatim. I'm sorry. Two sentences, because you
5 have the same thing in the sentence, "had to have
6 happened in the last year." So I'm going to read --

7 MR. TRAMMELL: Okay. That's fine.

8 MS. PALMER: Your Honor, just so it's
9 clear, I do believe both experts on both sides
10 testified that it's such an aggressive form of
11 cancer that it must have happened relatively within
12 close to his diagnosis.

13 THE COURT: No, not the last part. They
14 both did say it's aggressive. They both did say
15 that 12, 24, whatever turnaround. But -- and even
16 it's in the description of it, but did not -- this
17 is very specific. Okay.

18
19 (THE FOLLOWING PROCEEDINGS WERE
20 HELD IN OPEN COURT IN THE PRESENCE
21 OF THE JURY:)

22
23 THE COURT: Ladies and gentlemen, you're
24 to disregard the following argument: "The exact DNA
25 damage that caused Ezra's Burkitt's had to have
26 happened within a year of his diagnosis. So the DNA
27 damage, the double-strand break, has to have
28 happened in the last year."

1 You're to disregard that. It's stricken
2 from the record.

3 Please continue.

4 MR. TRAMMELL: Thank you, your Honor.

5 Okay. So this is what the studies show.
6 It's killing the cells, it's causing the DNA damage,
7 including the double-strand break, as it's
8 preventing your body from repairing the DNA damage
9 over time. Doing all these things every time.

10 But the damage it's doing to your repair
11 mechanism is cumulative, okay? Your ability to
12 repair DNA break, double-strand breaks gets worse
13 and worse as you're exposed to Roundup. That's what
14 the studies show.

15 The reason that matters is that, sure,
16 we're all getting DNA damage all the time,
17 particularly those of us who are getting Roundup on
18 our skin, and most of the time our bodies are able
19 to repair it. But because Roundup does the DNA
20 damage and impairs your body's ability to repair
21 that DNA damage, it makes it far more likely that
22 you're going to get the kind of double-strand break
23 that can result in a cancer.

24 You're going to get past this phase to
25 this phase much easier, because of Roundup's effect
26 on your repair mechanisms, and get here, and
27 ultimately get the cancer.

28 So that's what the DNA damage laboratory

1 tests show.

2 There is one epidemiological test. It's
3 the only study that Monsanto discussed with their
4 expert -- I think they're going to talk about it a
5 lot when I sit down -- it's the Agricultural Health
6 Study.

7 One thing to keep in mind about the AHS
8 is that it's one of several epidemiological studies.
9 It's the one that doesn't show an increased risk,
10 which is why they talk about it so much.

11 Remember, as Dr. Cooper said, their
12 expert, almost everybody in that study was either
13 wearing professional-quality protective equipment or
14 was in a sealed tractor cab when they sprayed
15 Roundup. All right? Not in a diaper, at their
16 mother's feet, with no clothes on. All right.

17 They lost 40 percent of the participants
18 in that study over time for just unknown reasons.
19 And most of the scientists involved in that study,
20 involved in the Agricultural Health Study, agreed
21 with IARC about Roundup, all right. Including
22 Dr. Blair, who was the chairman of the IARC Working
23 Group, also one of the scientists overseeing this
24 study. He agrees Roundup causes cancer, all right.

25 And so we asked -- I asked Dr. Cooper. I
26 said, you know, "You're going to get a lot less
27 Roundup on you if you're in a sealed tractor cab
28 while you're spraying Roundup, right?"

1 And she said, "Sure."

2 I asked, "Heavy PPE use, protective
3 equipment, means less exposure?"

4 "Of course."

5 And bear in mind, if anybody brings up
6 AHS when you're deliberating, if they say, "Well,
7 yeah, but the big Agricultural Health Study didn't
8 show increased risk," remind them it's one of many
9 epidemiological studies, all of the rest of which
10 show an increased risk in people who use Roundup and
11 non-Hodgkin's lymphoma. Okay?

12 And, when you put all the AHS data,
13 information, and you group it with all the human
14 data, it shows an increased risk.

15 I asked Dr. Cooper that. She
16 acknowledged, yes, AHS standing alone doesn't show
17 increased risk, but when you put it with all the
18 other studies and look at all the human data, there
19 is increased risk in people who spray Roundup. All
20 right?

21 Everything to the right of that line is a
22 study that showed an increased risk.

23 They may also show you this chart again.
24 I don't know if you remember this one. It's the one
25 that makes it look like non-Hodgkin's didn't go up
26 as the Roundup usage did.

27 Remember the way that they did that is
28 they zoomed in on the Roundup usage and then zoomed

1 way out on the non-Hodgkin's.

2 The real chart looks like this. If you
3 look at them both the same way, that's what it looks
4 like. There just wasn't much non-Hodgkin's when
5 Roundup hit the market. The rate is nearly twice
6 what it was then, now. Okay?

7 Kind of going up together, leveled off
8 together, all right.

9 They're also going to talk to you again
10 about the EPA. Remember all the references in that
11 EPA document to technical glyphosate, the active
12 ingredient, only being tested. And then their
13 primary exposure of concern being in the diet.

14 EPA is concerned with things that affect
15 everybody, like the environment and like the food
16 supply. And so they're talking about whether
17 Roundup, because it's used on just about all crops,
18 is safe in food, all right. They say it repeatedly
19 in that document.

20 And, you know, I think we should all be
21 glad that it probably is safe in food. For those of
22 us who go to restaurants and grocery stores, it's
23 good to know.

24 But that wasn't a document about getting
25 Roundup on your skin, all right. The EPA actually
26 has talked about getting Roundup on your skin. It's
27 the Office of Research and Development at the EPA
28 agrees with IARC, all right. Humans who get Roundup

1 on their skin are more likely to get non-Hodgkin's
2 lymphoma.

3 And remember, EPA sent somebody to IARC
4 to participate in the meeting. And at the end of
5 that meeting, that EPA participant in the meeting
6 voted that Roundup causes human cancer, okay? Just
7 something to keep in mind.

8 And this is kind of the way IARC works.
9 IARC is always first in telling the world that
10 something causes cancer. They were the first for
11 tobacco. We talked about UV light. They were the
12 first with benzene. And it takes a while, but the
13 rest of the world catches up. Took a while with all
14 those chemicals, but we all finally agree on them.

15 So since IARC -- everybody was surprised.
16 It was big news at the time. But since IARC, the
17 American Cancer Society agrees with them, California
18 EPA agrees with them. State of California considers
19 Roundup to be a chemical known to cause human
20 cancer, all right.

21 And here in Los Angeles County in 2019,
22 they permanently banned the use of Roundup and any
23 glyphosate-based herbicides on public property
24 because of health concerns.

25 And we talked about this, but one of the
26 primary ingredients in Roundup, the surfactant, the
27 thing that makes it able to get through your skin,
28 has been banned in most of the world for five years

1 now, all right. The U.S. version of Roundup you
2 can't buy just about anywhere else in the world
3 because it's too toxic, okay?

4 And most of the world is now either
5 banning or restricting the use of Roundup entirely,
6 okay? So it's not just here in L.A. County. It's
7 not just in California. It's most of the rest of
8 the world.

9 So Monsanto is going to try to convince
10 you that there are other causes of Ezra's Burkitt's
11 lymphoma. There's a type of Burkitt's lymphoma
12 called endemic Burkitt's lymphoma, which,
13 unfortunately, is common in Africa and in Papua New
14 Guinea. You heard Dr. Cooper talk about it.

15 Well, Ezra's lived in L.A. County his
16 entire life. This isn't the kind of non-Hodgkin's
17 that applies to him. Their experts acknowledged it.
18 So that can't be the cause of his non-Hodgkin's
19 lymphoma.

20 Another potential cause of Burkitt's
21 lymphoma is some kids have compromised immune
22 systems. And if you have a compromised immune
23 system, it can make you more likely to get a
24 Burkitt's lymphoma.

25 I asked Dr. Cooper, their expert, was
26 there any evidence that Ezra had a compromised
27 immune system before his Burkitt's lymphoma. She
28 said no. There is no evidence, okay.

1 So that's the other one. And then
2 another one is family history. It's true that if
3 Ezra had a first-degree relative with lymphoma, that
4 might be the cause of his Burkitt's lymphoma.

5 Ezra's mom has cervical cancer, all
6 right. She has the kind of cancer that only women
7 can get.

8 So we deposed Dr. Kirov, who is Ezra's
9 oncologist, and asked him is there any relationship
10 whatsoever between Ezra's mom cancer and his cancer?

11 So this is -- Dr. Kirov is not -- he's
12 not retained by me. He wasn't retained by Monsanto.
13 He's completely independent here. He just took care
14 of Ezra. But he's got more experience treating
15 cancer than either of our experts. And we asked him
16 this question: "Could Ezra's mom's cancer have
17 anything to do with his?"

18 "No."

19 No relationship whatsoever.

20 So I think they're going to argue that.
21 I think Monsanto's going to claim that his mother's
22 cancer has something to do with his. If anyone
23 raises that during deliberation, somebody remember
24 Dr. Kirov, all right? Dr. Kirov, who wasn't
25 retained by either side, says there is no
26 relationship whatsoever.

27 And so all that leaves is the Roundup.
28 Okay? This is the only potential risk factor in

1 this case, okay? We know Ezra was heavily exposed
2 to Roundup throughout most of his life. You got to
3 remember he was four when he was diagnosed, turned
4 five in the hospital when he was getting treatment.

5 From six months on, almost continuously,
6 up until he was diagnosed, he was out with his mom
7 in the backyard while she was spraying, picking
8 weeds, at his mom's feet.

9 So we've got heavy exposure to a known
10 human carcinogen up to his cancer diagnosis. We've
11 got proof in the scientific literature, and you will
12 hear no argument to the contrary, every single time
13 you expose a human cell to Roundup you get
14 double-strand breaks. Every single time. Every
15 test has found it. There are no tests that haven't
16 that are done independently. And that's the exact
17 type of DNA damage, remember, you've got to have for
18 a Burkitt's lymphoma.

19 In California, Roundup is a chemical
20 known by the State, the State health authorities, to
21 cause cancer, all right. Monsanto in Canada tells
22 its customers that it's poison if you get it on your
23 skin, one time. One drop, one time, it's poison,
24 all right.

25 Remember that when they're making all
26 their claims about how safe Roundup is. And it's
27 banned and restricted by countries throughout the
28 world, this same product.

1 So all of that information is in evidence
2 for you to consider when you're thinking about what
3 might have contributed to his risk of Burkitt's
4 lymphoma.

5 I want you to remember all that stuff.
6 It's a known carcinogen. He had heavy exposure. It
7 causes the exact kind of DNA damage that causes
8 Burkitt's lymphoma.

9 And the burden of proof in this case -- I
10 think there's going to be a lot of talk about what
11 we've proven and not proven -- just remember, it's
12 more likely than not. All right? Just the
13 slightest tip in our favor, and it's a "yes" vote.

14 You think about it like a basketball
15 game. They may score a lot of points, all right.
16 But if Ezra scores one more point than they do, it's
17 a "yes" vote. All right? You have to find in our
18 favor.

19 So lot of people say, "I'm not sure, but
20 I think so." You don't have to be sure to vote
21 "yes," all right? It's just more likely than not,
22 the slightest bit of more evidence in Ezra's favor,
23 and it's a "yes" vote.

24 You can agree with them on a lot of
25 things, and some of you might, but if it's slightly
26 more likely than not that Roundup exposure was a
27 substantial factor, was a contributing factor to
28 Ezra's development of his Burkitt's, then it's a

1 "yes" vote, and we should win.

2 And so we'll be asking you at the end of
3 your deliberations to check "Yes," and we thank you
4 very much for your time.

5 THE COURT: Ladies and gentlemen, we'll
6 take a ten-minute break. Do not discuss the case.
7 Do not form or express an opinion. Still that same
8 instruction. Ten minutes, please.

9

10 (OFF THE RECORD; BRIEF RECESS
11 ENSUED.)

12 (THE FOLLOWING PROCEEDINGS WERE
13 HELD IN OPEN COURT IN THE PRESENCE
14 OF THE JURY:)

15

16 THE COURT: Okay. On the record with the
17 jury.

18 Mr. Stekloff.

19

20 (CLOSING STATEMENTS ON BEHALF OF
21 DEFENDANT).

22

23 MR. STEKLOFF: Thank you, your Honor.

24 Good morning, everyone. Each time I've
25 stood before you, whether it was in those mini
26 openings we had before jury selection, before you
27 filled out the questionnaire, or in my opening, I've
28 started by talking with you about sympathy.

1 And it's where I want to start again this
2 morning because now you've heard from the witnesses,
3 you've heard from the family, you've seen the
4 evidence, and I cannot imagine anything else other
5 than all of you feel sympathy for the Clark family
6 and the Crenshaw family.

7 Every person who has been through this
8 trial, including myself, Ms. Saulino,
9 Ms. Cope-Kasten, and, again, I imagine all of you,
10 has to feel sympathy for this family. How could you
11 not?

12 What Ezra Clark went through -- and I'm a
13 parent -- it's a parent's worst nightmare. It's
14 heartbreaking. And it doesn't matter if you're a
15 parent or a grandparent or an aunt or an uncle or a
16 cousin, no family wants a child in their family to
17 go through this experience.

18 And there is even more, because you heard
19 from Ms. Clark, and you heard about her terminal
20 cancer, and it's just as heartbreaking.

21 But this case is not about sympathy. The
22 judge has instructed you -- he instructed you in his
23 opening instructions, and it's in the instruction
24 that you have sitting before you -- you may not
25 allow bias, sympathy, prejudice, or public opinion
26 to influence your decision.

27 That is the law. And all of you were
28 chosen because you agreed to apply the law to the

1 facts of this case. You are the fact-finders here
2 under the law that has been given to you.

3 And what I really think you watched in
4 this trial was a family understandably searching for
5 an answer. How did this happen to us? Why did this
6 happen to us?

7 It's what any parent would do. It's what
8 any grandparent would do. And it is completely
9 understandable.

10 And for this family, you heard that
11 answer, that search for an answer started in 2018
12 when Ms. Clark saw an advertisement on Facebook by
13 lawyers and made a phone call.

14 And she spoke to the lawyers, and she
15 spoke to Dr. Sawyer, and she learned from those
16 discussions you couldn't just say there was a little
17 bit of Roundup one time, a few times, there had to
18 be a lot of Roundup sprayed. There had to be a lot
19 of Roundup purchased. And Ezra Clark had to be
20 there the whole time getting exposed to that
21 Roundup. That is what Ms. Clark learned when she
22 spoke to Dr. Sawyer and the lawyers.

23 And there is an old adage or old saying,
24 and it goes like this: The truth is simple because
25 there's nothing to remember. When you tell the
26 truth, you don't mix up the facts. There aren't
27 inconsistencies, because it happened. It's easy to
28 remember.

1 It's when it didn't happen that you can't
2 remember what you said the first time and the next
3 time, and the next time, and the next time. And the
4 inconsistencies start piling up and piling up, and
5 the explanations start coming and piling up and
6 piling up. And that's what you have seen here in
7 this trial.

8 And you may feel for the family as
9 they've tried to come up with those explanations,
10 but that is not why you're here. It's not sympathy
11 for them. It's not sympathy for the experiences
12 they've gone through.

13 You've been asked to answer a very simple
14 legal question: Was Roundup a substantial factor in
15 causing Ezra Clark's Burkitt's lymphoma?

16 And so that's what I'm going to talk to
17 you about, what the evidence in this trial showed
18 that will lead you to the correct answer to that
19 question.

20 Lawyer closing arguments, they're not --
21 we're not testifying. We're explaining what the
22 evidence showed, and that's what I'm going to do
23 here this morning.

24 So this is the first slide that I used in
25 my opening statement. And I laid out the questions
26 that you were going to have to answer as you tried
27 to get to this ultimate question of substantial
28 factor, whether it caused his Burkitt's lymphoma:

1 Was Ezra Clark exposed to Roundup? If
2 so, when, and for how long?

3 Did Roundup cause Ezra Clark's Burkitt's
4 lymphoma?

5 That's exactly how I'm going to go
6 through things here this morning.

7 The first question: Was Ezra Clark
8 exposed to Roundup?

9 Well, this is the testimony that you saw.

10 Mrs. Crenshaw: "It's true that you never
11 saw anyone spray Roundup around Ezra, right?"

12 "No, I did not see anybody specifically
13 spraying around Ezra."

14 "You never saw anyone spray Roundup while
15 Ezra was outside playing, right?"

16 Answer: "No."

17 Mr. Crenshaw, I asked about Lissett:

18 "Did you ever see your daughter Destiny
19 spray Roundup?"

20 "No."

21 "So I take it you never saw her spraying
22 anywhere around Ezra?"

23 "No."

24 Mia Romero: "Do you have any
25 recollection of your mom spraying Roundup?"

26 "No, I don't."

27 Jacob Romero: "Were you ever outside
28 with your mom when she was spraying Roundup?"

1 "No."

2 And you heard this morning the importance
3 of these five sworn statements. You recall
4 Mr. Trammell stood up here and said she was always
5 consistent. When she spoke to the lawyers, she was
6 consistent. She always said the same thing because
7 it was easy for her to understand.

8 Well, the interrogatories that we read
9 into evidence, who do you think sends them to us?
10 The lawyers. They type out the answers. They
11 provide them to Monsanto.

12 So let's look at whether she was
13 consistent in those sworn statements, because this
14 is dated December 23rd, 2020, and the question is:
15 "Identify all persons that witnessed your child's
16 exposure to Roundup."

17 And the sworn statement that the lawyer
18 sent to us was: "Plaintiff responds as follows:
19 Charles Crenshaw (Ezra Clark's grandfather); Jacob
20 Romero, Ezra (Clark's older brother); and Mia
21 Romero, (Ezra Clark's sister.)"

22 And yet we know that they didn't see what
23 is sworn here in this interrogatory response that
24 was provided to us.

25 Now, would they have seen her spray? If
26 she sprayed every weekend over that five-year
27 period, take out the period in Yucca Valley, would
28 they have seen her spray? She claims she sprayed

1 every single weekend.

2 We know the grandparents were often home
3 on the weekends. We know the kitchen looked out on
4 the backyard to the pool and the patio where she
5 says she was spraying the most.

6 We know that Mrs. Crenshaw's office
7 overlooked the backyard where she says she was
8 spraying. We know that Mia Romero testified she saw
9 the gardener spray.

10 And we know that all four children were
11 outside together at different times. They would
12 have seen her spray if this happened every weekend
13 from 2011 to 2016.

14 Let's look at another sworn interrogatory
15 response provided to us by the lawyers in December
16 of 2020: "Identify the individual who purchased the
17 Roundup and/or sprayer."

18 "Plaintiff responds as follows:

19 Plaintiff purchased the Roundup or Plaintiff's
20 father, Charles Crenshaw, purchased the Roundup."

21 So in December 2020, under penalty of
22 perjury, the lawyers provided to us a statement that
23 there were two people who bought the Roundup,
24 Ms. Destiny Clark and Charles Crenshaw.

25 And I'll show you in a moment, we know
26 now Ms. Clark says she never bought Roundup.
27 Mr. Crenshaw did, but now they've also added
28 Mrs. Crenshaw.

1 Here's the testimony from Ms. Clark:

2 "And were you going to the store to get the
3 Roundup?"

4 "No, I never -- I never bought the
5 Roundup."

6 Mr. Crenshaw, let's talk about the amount
7 for a moment. Because what you need to believe for
8 them to meet their burden is that they bought
9 52 bottles a year. That is what they are telling
10 you. So let's look at that.

11 Mr. Crenshaw explained: "You bought
12 about one or two big containers a season, correct?"

13 "Right."

14 "And that's because, for you, that was
15 plenty of Roundup to spray what you needed to spray
16 around the pool, correct?"

17 "Yeah, I would think so, pretty much."

18 Now, you heard testimony from the lawyer
19 this morning, which is not supposed to be testimony,
20 that somehow Mrs. Crenshaw, she would go shopping by
21 herself all the time and handle all the household
22 goods.

23 This was what was testified to in trial
24 from Mrs. Crenshaw:

25 "You typically shopped with your husband,
26 Mr. Crenshaw, right."

27 "Typically, yes."

28 "And it's true that the two of you were

1 typically together when you purchased Roundup,
2 right?"

3 Answer: "Yes."

4 And Mr. Crenshaw verified it, that they
5 typically shopped together too: "You and your wife,
6 Mrs. Crenshaw, you usually shopped together,
7 correct?"

8 "Yeah."

9 And Mrs. Crenshaw was also deposed, and
10 this was her testimony before she spoke with the
11 lawyers about what she could remember about her
12 purchases of Roundup.

13 Mrs. Crenshaw. "How many times do you
14 recall having bought Roundup between the time that
15 Ezra moved in and the time that he got sick."

16 "I honestly don't remember."

17 "Do you have any specific recollection of
18 buying Roundup at all during that time?"

19 "I don't have any specific, you know,
20 recollection, but I know that I purchased it. I
21 just don't know the when."

22 "Do you have a clear knowledge of having
23 purchased it during the time period between when
24 Ezra moved in and the time that he got sick?"

25 "No, I don't have."

26 "And do you have any actual knowledge of
27 either your husband or Destiny purchasing Roundup
28 between the time period that Ezra moved in and the

1 time he got sick?"

2 "I don't."

3 Now, what happened after that deposition?

4 You may recall this chart that I wrote out while I
5 was talking, asking questions of Mrs. Crenshaw.

6 First, she said there were no substantive
7 meetings with plaintiffs' attorneys before the
8 deposition on June 29th, 2021. You may recall, they
9 met at the hotel the day before for 20 to 30 minutes
10 because she had never been deposed before, and they
11 just talked about logistics of a deposition.

12 But then after that, Mrs. Crenshaw met
13 with the plaintiffs attorneys four to five times
14 between her deposition and her trial, and she
15 admitted that they discussed how many Roundup
16 bottles she purchased.

17 So when she testified here, she said she
18 bought 52 bottles a year or 50 bottles a year.

19 "Yes, on average, you know, once a week."

20 And so from the deposition testimony and
21 from Mr. Crenshaw, you have two bottles a week.
22 It's unclear whether it's two spray bottles, two big
23 bottles, one big bottle and one spray bottle.

24 But that makes sense. We're going to
25 talk about Dr. Al-Khatib. It makes sense to buy one
26 big bottle for the gardener who was handling the
27 weeds, and then to have a spray bottle around to
28 spot spray if a weed popped up every once in a

1 while.

2 What doesn't make sense is to have to buy
3 52 bottles for that property.

4 But you'll remember Dr. Sawyer said that
5 Ms. Clark used 36 to 48 bottles. They're relying on
6 Dr. Sawyer to prove the exposure, and he needs to
7 show 36 to 48 bottles used just by Ms. Clark alone.

8 Now, let's also talk about the burden of
9 proof, because the burden is on the plaintiff. And
10 it's not -- we talked about this a little bit in
11 opening.

12 It's not one point. In a basketball
13 game, you don't start at 104 each and then someone
14 has to hit a free throw to get 105-104. Everyone
15 starts at zero.

16 And they have to prove their case. And
17 one way that they could prove all these purchases is
18 if they brought receipts.

19 If you bought 52 bottles a year at Home
20 Depot and Lowe's and your local hardware store, from
21 2011 to 2016, and maybe all the way through 2019 or
22 2020, you'd be able to have receipts. So where are
23 the receipts?

24 The burden is on them to show all of
25 these purchases that they are claiming.

26 Now, let's look at the yard. How did the
27 family deal with weeds at the Fuero Drive property?

28 First of all, you heard the testimony

1 from them and from Dr. Al-Khatib. The weeds were in
2 limited areas. The primary area where they were
3 spraying was around the pool, in that patio area,
4 where weeds come up between cracks.

5 They paid a gardener during this entire
6 time to be responsible for the weeds. And we know
7 there was a gardener. Mrs. Crenshaw told you,
8 Mr. Crenshaw told you, Mia Romero told you.

9 We know that Mr. and Mrs. Crenshaw also
10 sprayed, and we know that the family hand-pulled
11 weeds.

12 How many weeds were on this property?
13 You heard from Dr. Al-Khatib. He visited the
14 property in July. He analyzed the property and the
15 weeds. He showed you those specific two types of
16 weeds that are most common there.

17 And then he explained to you how the
18 season really works. In the early spring, weeds pop
19 up once. You spray them, and they're dead until the
20 next season.

21 There might be a second set of weeds that
22 comes up, a smaller set, because there might be
23 seeds deeper in the ground. So a few weeks later,
24 you might spray again. They're dead for the season.

25 That's how Roundup works. It doesn't
26 take spraying every single weekend for an hour.

27 And he explained that to spray the weeds
28 at that property that he visited, you would only

1 need one to two bottles of Roundup per year and it
2 would take about ten minutes. He actually said
3 seven to ten minutes of total spraying time.

4 And this testimony, to be clear, was
5 uncontroverted. The cross-examination, you'll
6 remember, was maybe four minutes long. There was
7 nothing to challenge this specific testimony about
8 what Dr. Al-Khatib testified to.

9 So that's the first question: Was Ezra
10 Clark exposed to Roundup?

11 Let's look at the second question: If he
12 was, when, and for how long?

13 And let's be clear. The plaintiffs'
14 theory, the plaintiffs' burden is that they have to
15 prove that Ezra Clark was exposed to 80 lifetime
16 hours of Roundup exposure.

17 You just saw that, actually, in the
18 plaintiffs' closing, but Dr. Sawyer admitted that.
19 That's why his whole chart was about 80 hours.

20 "You agree that in this case if Ezra
21 Clark was exposed to Roundup for under 10 eight-hour
22 days, that would absolutely matter to your opinions,
23 correct?"

24 "Yeah, it would certainly matter, yes."

25 "Right. And that's because you were
26 trying to assess did he have exposure for 10
27 eight-hour days or not, correct?"

28 Answer: "Yes."

1 Then Dr. Fish said, "I'm relying on
2 Dr. Sawyer."

3 "So if Dr. Sawyer's report is invalid, is
4 your opinion also invalid?"

5 "My opinion is tied to Dr. Sawyer's
6 opinions."

7 "So that's a yes?"

8 "Yes."

9 So if they don't prove 80 hours of
10 exposure to Ezra Clark, they haven't met their
11 burden.

12 So let's -- this is the chart, you'll
13 recall. This is the chart where Dr. Sawyer
14 calculated the 80 hours. You can see the 86.6 and
15 the 10.8 at the bottom. And now let's talk about
16 that.

17 First of all, you heard multiple
18 inconsistent stories in this trial. And I really
19 want to start with the first one, the plaintiff fact
20 sheets.

21 Because it was surprising to hear
22 plaintiffs' counsel stand up this morning and say:
23 There were five times, she was always consistent.

24 I already showed you the interrogatory
25 responses. But let's also recall what the plaintiff
26 fact sheets showed.

27 You heard today it always showed 2011 to
28 2016. So I went back and I looked at Dr. Sawyer's

1 testimony on this when I was showing him the
2 plaintiff fact sheet.

3 Question: "Okay. So if you can turn to
4 page 8 of the first plaintiff fact sheet,
5 Exhibit 9502. And do you see at the top there is a
6 box there?"

7 Answer: "Yes."

8 Question: "And that indicated, isn't it
9 true, that Ms. Clark said under oath that she
10 sprayed on her personal property to control weeds
11 until 2020, correct?"

12 Answer: "Correct. But as --"

13 Question: "Dr. Sawyer, the answer is
14 'Correct,' right?"

15 Answer: "Yes. But I only go up to the
16 time of diagnosis in my table."

17 So first you have the plaintiff fact
18 sheets and the interrogatories in December. They
19 say one thing. Then you heard that she had
20 discussions with Dr. Sawyer in late 2020. There is
21 a whole 'nother story there.

22 Then you had the deposition testimony,
23 and I am going to show you again some of that. Then
24 you had Ms. Clark's trial testimony here, and you
25 had Dr. Sawyer's trial testimony. And it's not even
26 worth going through all the inconsistencies because
27 it's very hard to keep track.

28 Dr. Sawyer himself wasn't even

1 consistent. He came in on day one and said one
2 thing, I cross-examined him, and then on day two he
3 came in and tried to change what he said was in his
4 report. And I had to cross-examine him on that
5 again.

6 So let's start with the first time that
7 Ms. Clark said she sprayed under oath in her
8 deposition. Because one of the first questions you
9 have to ask is did she spray in 2011 and 2012?

10 And this is the first video, which you
11 have seen.

12

13 (THE VIDEO COMMENCED PLAYING BEFORE
14 THE JURY:)

15

16 "So your testimony is that you
17 recall the first time you sprayed
18 Roundup, that the spray got onto
19 you and onto your son?"

20 "Yes."

21 "When did that happen?"

22 "The first time that I sprayed."

23 "When was that?"

24 "Which would be -- excuse me, I
25 have to think back. It would be
26 when we moved back from Yucca
27 Valley in September. And that
28 would be the first time we would be

1 outside and I sprayed."

2

3 (THE VIDEO CONCLUDED PLAYING.)

4

5 And that's September 2013. Then she was
6 asked again, this question:

7

8 (THE VIDEO COMMENCED PLAYING BEFORE
9 THE JURY:)

10

11 "Just to make sure that we're clear
12 on this, before September of 2013,
13 you have no knowledge of Ezra
14 having been exposed to Roundup,
15 right."

16 "Not that I can remember."

17

18 (THE VIDEO CONCLUDED PLAYING.)

19

20 MR. STEKLOFF: Okay. So if you take out
21 2011 to 2012 in Dr. Sawyer's table, you're below
22 80 hours. 65 hours. 8.1 days. They haven't met
23 their burden.

24 Now, you also heard testimony about when
25 Ms. Clark stopped spraying. So let's talk about
26 that issue. Did she stop when her diagnosis, her
27 own diagnosis, occurred in February 2015? Or was it
28 later?

1 And you'll see here, here is the medical
2 record. It's Exhibit 5000b-2, and it shows that her
3 initial diagnosis was on February 23rd, 2015.

4 And then you'll recall that there was
5 testimony about -- sorry, let me go back. Sorry
6 about that. One more.

7 Okay. You'll recall that there was
8 testimony about the therapy that she went through
9 when she was diagnosed.

10 So from March 23rd through June 5th, she
11 had chemotherapy, cisplatin, and it was combined
12 with radiation. You'll recall, when she was first
13 diagnosed, she had three months of radiation that
14 both Mrs. Crenshaw and she testified was very
15 difficult for her to get through.

16 Which, again, this is not -- I mean,
17 that's awful. This isn't about sympathy, but these
18 are about the facts about whether or not she was
19 going out every weekend during that time period and
20 spraying.

21 And you'll recall that even throughout
22 the year, in July and August, she continued to
23 undergo chemotherapy.

24 Now, you'll also recall there was
25 testimony, and you saw this medical record, that at
26 times the therapy she was going through was
27 inhibiting her ability to walk.

28 This is one medical record. It's

1 specific to January 19th, 2016. She had to be
2 admitted to the hospital at City of Hope because she
3 was in so much pain.

4 But that wasn't the only time, because
5 you'll also recall Mrs. Crenshaw saying, "There were
6 times when she had such a hard time walking, we had
7 to put her in a wheelchair to get her from the house
8 to the car to take her places."

9 And so we also asked her at the
10 deposition about when she stopped spraying, and this
11 was her testimony.

12 (THE VIDEO COMMENCED PLAYING BEFORE
13 THE JURY:)

14
15 "Do you recall having sprayed
16 Roundup at all after January of
17 2015 in 2015? So for the rest of
18 2015, do you recall having sprayed
19 Roundup."

20 "February I could have, but I don't
21 remember specifically. And then I
22 was -- I was too sick after that to
23 have been outside to spray."

24
25 (THE VIDEO CONCLUDED PLAYING.)

26
27 MR. STEKLOFF: And again.

28

1 (THE VIDEO COMMENCED PLAYING BEFORE
2 THE JURY:)

3 "Is it your testimony, then, that
4 the last time you sprayed Roundup
5 in the presence of Ezra was in
6 January or potentially February of
7 2015."

8 "Yes."

9 (THE VIDEO CONCLUDED PLAYING.)

10

11 MR. STEKLOFF: That was her testimony
12 under oath in a deposition.

13 And you can discuss among yourselves how
14 difficult it was for her to understand those
15 questions and whether her responses, her demeanor in
16 those responses.

17 Now, if you take out February 2015 to
18 '16, you have to take out a year from Dr. Sawyer's
19 chart. Goes from 2.5 to 1.5, and it goes down to
20 39 hours and 4.9 days.

21 And let's be clear, that still assumes
22 all of this weekly spraying the other times.

23 But the point is, if you don't think she
24 sprayed in that last year that they have said, or if
25 you don't think she sprayed before 2013, when she
26 testified to it repeatedly under oath, or for other
27 reasons, if you don't think she sprayed 80 hours,
28 they have not met their burden. Then the discussion

1 is over. It was not a substantial cause of Ezra
2 Clark's Burkitt's lymphoma.

3 Now, the plaintiff, the lawyers knew that
4 this was an issue before the case started. And I
5 want to show you what they said in opening statement
6 about why you shouldn't believe the deposition of
7 Ms. Clark, because it was different than what you
8 heard today.

9 Today it was: "It's very easy to talk to
10 us. When I talk to her, it's always consistent.
11 The deposition was so aggressive and so challenging.
12 They're professional interrogators." That was the
13 explanation today.

14 But what was the explanation from
15 plaintiffs' counsel at the outset of the trial?
16 This was it: "But before the worst of the
17 treatments" -- that's talking about that
18 chemotherapy and the radiation -- "she was able to
19 talk to Dr. Sawyer, who is an expert toxicologist,"
20 and it went on, and then he said, "and was able to
21 do that, was able to remember all those things, then
22 heavy brain radiation, heavy cancer treatment."

23 So the explanation in opening, when they
24 have the burden for why you shouldn't believe the
25 deposition, was because their claim was she met with
26 Dr. Sawyer, believe what she told Dr. Sawyer. And
27 then she had all this treatment, and you can't
28 believe anything after that.

1 But you'll recall, we looked at the
2 treatment. Her treatment for when the recurrence
3 occurred, when the cancer unfortunately came back,
4 was in October of 2019 through March of 2020, and
5 then through May of 2020.

6 And I walked through this with
7 Mrs. Crenshaw. In August of 2019, she had her
8 surgery. In October of 2019, she had her radiation.
9 In October of 2019 through March of 2020, she had
10 her chemotherapy.

11 And then it wasn't until September of
12 2020, so five to six months later, November 2020,
13 and December 2020 that she met with Dr. Sawyer. So
14 the explanation fell apart.

15 They tried to tell you one thing in
16 opening about why you shouldn't worry about the
17 deposition. Now they're coming up with another
18 explanation. That does not meet the burden.

19 And I'm not going to read this whole
20 witness credibility instruction to you, but it is
21 one of the important instructions that tells you how
22 you should evaluate all of the testimony you heard
23 from witnesses on both sides.

24 It's a little hard with masks in this
25 situation, maybe a little harder, but you can still
26 evaluate, both in the depositions and when witnesses
27 sat here on the witness stand, their credibility.

28 And I for a moment want to focus on

1 Section E for one comment, "What was the witness's
2 attitude toward this case or about giving
3 testimony," and remind you when I asked Dr. Jameson
4 about Ezra Clark, and his response was "Who?"

5 And ultimately I said, "So you're not
6 here to offer any opinions about Ezra Clark?"

7 He said, "How could I? I don't know who
8 he is."

9 What does that tell you about the
10 seriousness with which their experts are taking this
11 case?

12 So let's talk about Dr. Sawyer for a
13 moment. You can gauge Dr. Sawyer's credibility and
14 the way he answered questions when plaintiffs'
15 counsel was examining him and then when I was
16 examining him.

17 But you also heard these facts. He
18 was -- he has been retained in over 90 Roundup
19 cases. He always tries to prove that a plaintiff
20 met that 80-hour threshold that he establishes.

21 He never records his interviews. And let
22 me pause there for a moment, because wouldn't you
23 like to know what they discussed? So why not record
24 it?

25 You heard the first interview was a Zoom.
26 I think we've all become pretty familiar with Zoom
27 these days. There is a record button on the Zoom.

28 And we could see exactly what Ms. Clark

1 learned from Dr. Sawyer during that interview if we
2 had a video of it, but we don't. He's never
3 recorded an interview in any of his 90 cases. And
4 ask yourself: Why?

5 He has no legitimate board certification.
6 I won't go through all history of his board
7 certifications, but you'll remember that. He's been
8 paid over \$2.25 million in Roundup litigation. And
9 maybe most offensively, he cannot even remember
10 which plaintiff he's talking about.

11 At one point you recall he started
12 talking about someone spraying on rocks, and he had
13 to catch himself and say, "Oh, that's not this
14 case." That's another case with someone named
15 Ms. Stephens, who is also represented by the same
16 plaintiffs lawyers.

17 Even on direct, when he was being asked
18 questions by plaintiffs' counsel, he kept saying,
19 "she," "she," "she." And it was confusing. It
20 wasn't clear to me, is he talking about Ms. Clark?
21 Ezra Clark? No. Because later he said there was
22 someone named Norah. Do you recall he said Norah?
23 And that's because there is another plaintiff named
24 Norah who he was confusing with when he was talking
25 about Ezra Clark.

26 And their whole case rests on him. If
27 you don't believe Dr. Sawyer, the case is done. The
28 question can be answered: "No."

1 Okay. So did Roundup cause Ezra Clark's
2 Burkitt's lymphoma? First of all, all of their
3 experts who testified about this topic agreed that
4 double-strand breaks can occur randomly. There is
5 no dispute that to have Burkitt's lymphoma you need
6 a double-strand break, but then you also need that
7 (8;14) translocation, and then a lot of other
8 complicated steps that Dr. Cooper walked you through
9 with her flowchart very carefully.

10 But every one agrees, random mutations
11 can occur.

12 "Dr. Fish, double-strand breaks can even
13 occur spontaneously, right?"

14 "Yes, those strand breaks can occur
15 spontaneously."

16 "Dr. Fish, there is no way to tell from
17 looking at a pathologic slide what caused the
18 double-strand break in a particular case, right?"

19 "That's true."

20 Dr. Jameson: "It is true that children
21 have more random mutations caused simply by their
22 body performing its natural functions than adults,
23 correct?"

24 Answer: "I think that's been shown,
25 yes."

26 Dr. Sawyer. "Children can have random
27 mutations in their daily life that can result in
28 Burkitt's lymphoma specifically, correct?"

1 Answer: "Yes."

2 So Dr. Cooper, who is one of the leading
3 pediatric oncologists in the country and probably
4 the world, came in here, and she told you that she
5 believes, having looked at all of the evidence, that
6 Ezra Clark's Burkitt's lymphoma, like most children
7 with Burkitt's lymphoma, was caused by a random
8 mutation, part of the body's natural processes.

9 And then she did explain that potentially
10 there were one or two contributing causes that may
11 have played a role as well.

12 And you'll remember this slide because
13 these are the three things she said may have caused,
14 may have been that substantial factor in causing,
15 Ezra Clark's Burkitt's lymphoma.

16 She said the most likely was a random
17 mutation, because as children, you heard, as their
18 immune systems are fighting off colds and
19 infections, they're replicating and replicating, and
20 you can get those random mutations.

21 But then she said there is the
22 possibility of an inherited predisposition and
23 immunodeficiency. And she wasn't criticizing
24 Dr. Kirov for not testing for those things, but she
25 very carefully walked you through how at Johns
26 Hopkins, in the last year or so, leading experts
27 have been developing new ways to assess these
28 things; and that in Ezra Clark's case, given that

1 Ezra developed cancer and Ms. Clark developed
2 cancer, she has some suspicions where she would want
3 to do more testing and the same with the
4 immunodeficiency records.

5 So let's talk about Dr. Fish for a moment
6 because Dr. Fish's entire opinion comes down to
7 these four genotoxicity studies. That's it.

8 None of them show an (8;14)
9 translocation. No one in the world has said you can
10 look at four genotoxicity studies and make a cancer
11 determination. No one. Not even Dr. Sawyer.

12 None of them show the translocation that
13 is absolutely necessary to develop Burkitt's
14 lymphoma. None were done in animals, which you
15 heard is necessary. You have to take those Petri
16 dish tests and then do them in animals to even be
17 able to make conclusions about DNA damage. None
18 used those accepted OECD guidelines that I walked
19 through with Dr. Sawyer.

20 And all of them you have to consider --
21 Dr. Cooper very clearly explained this to you -- the
22 possibility that the DNA damage is showing up in
23 dead cells which do not lead to cancer.

24 So Dr. Fish came here, he was on video,
25 and he told you he thinks Ezra Clark's Burkitt's
26 lymphoma was caused by Roundup.

27 And that's a nice thing in the courtroom,
28 but what does Dr. Fish do outside the courtroom?

1 What does he do in the real world? He's never told
2 a patient Roundup caused his or her cancer. He's
3 never told a family Roundup caused their child's
4 cancer.

5 He's never told a colleague Roundup
6 causes cancer. He's never written in a medical
7 record Roundup caused a patient's cancer. And he's
8 never published an article on Roundup.

9 It's one thing to come in here and say
10 something based on four studies that don't even
11 stand for what he's claiming, don't show an (8;14)
12 translocation, it's another when you're taking care
13 of real patients in the real world and talking to
14 their families.

15 And Dr. Cooper does exactly what she said
16 here in the real world.

17 We asked her: "If you believed that
18 Roundup caused cancer, Dr. Cooper, would you do any
19 of those things?"

20 "Absolutely. I would shout it from the
21 rooftops."

22 "And why is that?"

23 And she got emotional: "Because telling
24 a parent that their child has cancer is one of the
25 worst things that you can imagine. And if I could
26 prevent one case of that, I would do everything I
27 could."

28 And I agree, there is another doctor

1 you've heard from who is independent, Dr. Kirov. So
2 let's look at what Dr. Kirov said.

3 He said mutations can lead to cancer. He
4 said genetics can play a role in childhood cancer.
5 He said cancer can happen when the immune system is
6 not functioning well. He said environmental factors
7 are rarely connected to childhood cancer.

8 And he has no opinion whatsoever, as the
9 doctor who took care of Ezra Clark and treated him,
10 he has no opinion that Roundup caused Ezra Clark's
11 cancer.

12 So, again, even if you think a lot of
13 Roundup was sprayed, even if you think 80 hours was
14 sprayed, they still have not proven that Roundup
15 caused Ezra Clark's cancer. But they can't prove
16 any of those three things.

17 So let me talk about whether Roundup
18 generally causes cancer. You don't even have to
19 discuss that if you don't believe that Ezra Clark
20 was exposed to 80 hours or that Dr. Cooper is just
21 wrong. Dr. Cooper, with her credentials, just
22 doesn't know what she's talking about.

23 But if you discuss whether Roundup causes
24 cancer, I want to show you what the evidence has
25 been in this case.

26 First of all, let's talk about pediatric
27 cancer because that's what we're here about. And
28 this is Dr. Jameson.

1 "In order for you to determine whether
2 glyphosate increases the risk of non-Hodgkin's
3 lymphoma in children, you need actual data on
4 glyphosate in children, correct?"

5 Answer: "To say specific for glyphosate,
6 you need data on glyphosate, that's correct."

7 And every expert on the plaintiffs' side
8 agreed there is no pediatric data.

9 Dr. Fish. "You are not aware of any
10 study showing an increased risk of Burkitt's
11 lymphoma associated with exposure to Roundup?"

12 "That's correct."

13 Dr. Jameson. "And you agree there is no
14 pediatric data that says Roundup or glyphosate
15 increases the risk of childhood NHL?"

16 "I believe that's the case."

17 Dr. Sawyer. "There are no studies that
18 analyze whether Roundup or glyphosate has any affect
19 on childhood cancer?"

20 "That's correct. There are no child
21 applicators."

22 Dr. Zhang. "The studies that we talked
23 about so far and the studies you included in your
24 meta-analysis are all studies in adults, right?"

25 "Yes."

26 "Those studies did not include any
27 children among their participants, did they?"

28 "No."

1 So you saw this pyramid of evidence from
2 Dr. Cooper and how scientists in the real world
3 evaluate all of these types of studies. So let's
4 start with genotoxicity, which you can see -- sorry,
5 please, Mr. Chase, perfect -- is at the bottom.

6 And Dr. Sawyer admitted that "even if a
7 chemical is shown to cause damage to DNA, that does
8 not mean it can cause cancer, right?"

9 "That doesn't mean it can cause cancer,
10 but it can, but it doesn't guarantee it. Correct."

11 "Right. You would need additional
12 studies to be able to make a determination that it
13 causes cancer, right?"

14 Answer: "Yes."

15 And he agreed that the genotoxicity
16 studies that have been done on glyphosate and
17 Roundup are largely negative.

18 And you also saw the National Toxicology
19 Program, that group where Dr. Jameson worked for
20 30 years, has done a study. It doesn't mean all the
21 studies are going to show some different things, but
22 they are largely negative. And this well-respected
23 group of scientists in 2019 did a study that not
24 only shows at the bottom that glyphosate and its
25 formulations, so also Roundup, did not induce DNA
26 damage and oxidative stress.

27 But their study also showed that it did
28 not induce double-strand DNA damage in two types of

1 cells. And they're obviously using cells that real
2 scientists use to do these types of tests.

3 Now, let's talk about animal studies
4 which also were at the bottom of that pyramid. And
5 Dr. Jameson, who is the one who talked to you about
6 those studies, he didn't even know some of the
7 studies on that chart. Remember I asked him about
8 Takahashi? He didn't even know what it was.

9 But he talked to you about the studies,
10 but then he admitted this.

11 "The animal studies you relied on were
12 not designed to see if glyphosate causes
13 non-Hodgkin's lymphoma in humans, correct?"

14 Answer: "Correct."

15 Then he explained one of the reasons.
16 "The doses used in the animal studies were several
17 thousand times higher than humans are exposed to in
18 their daily lives, true?"

19 "That's probably true, yes."

20 So I am going to talk about the
21 Agricultural Health Study, because you saw those
22 other studies that had 20 participants, 30
23 participants. This one had 50,000 participants.

24 And they may have sprayed sometimes in
25 farm machinery, they may have worn protective gear,
26 but these are the people that are using Roundup day
27 in, day out, mixing it, applying it, using it at
28 home, using it on the farm. They are exposed to

1 more Roundup than anyone.

2 The study was independently run by the
3 National Cancer Institute. And I don't think there
4 is any dispute in this case that the National Cancer
5 Institute is highly reputable and highly
6 authoritative. It is the largest and best study of
7 Roundup in humans.

8 Let me also be clear, any of these
9 studies that are on humans are about Roundup.
10 They're not just about glyphosate. They are on
11 Roundup because that's what the people are using.

12 In 2005, it showed no association. And
13 then you'll remember Dr. Cooper explained they
14 wanted to see that latency period because what if
15 cancer developed later. So they looked again
16 13 years later, in 2018. No association.

17 And here is some of the data that she
18 showed you. And you can see. Remember, they had
19 people in different quartiles, so some people were
20 less exposed, and in Q4 they were more exposed.

21 And in these studies, you need to see an
22 odds ratio, or an OR, above 1 if there's an
23 association that is statistically significant.

24 And every single odds ratio -- I'm trying
25 to do this here -- this is the people who weren't
26 using Roundup, the reference, the people who were
27 using it the least among the farmers or the
28 applicators, below 1; next group, below 1; next

1 group, below 1; the people who were using it the
2 most, below 1.

3 At every point, this study, the largest
4 and best study, showed that Roundup was not causing
5 cancer.

6 And we showed you one study where they
7 actually looked at the children -- do you remember
8 there was maternal data and then paternal data? --
9 from the Agricultural Health Study.

10 And it showed the same thing. That odds
11 ratio for those children, whether they were around
12 their mom or their dad, was well below 1: .61, .84.

13 That's the only pediatric data you saw in
14 this case. From the biggest, best study, by the
15 most respected scientists.

16 So let's talk about this chart for a
17 moment. This was our version. This is the
18 plaintiffs' version. Now, it's a little hard to
19 see, but the years here start at 1974 and then
20 continue on.

21 And so you see cancer increase. But what
22 was used over here? Lots of other pesticides were
23 used before you saw the cancer increase. And then
24 even in Mr. Trammell's closing today, he said "and
25 then it evened out."

26 Exactly. It evened out. If there were
27 going to be an increase, you would see an increase
28 after Roundup use started.

1 And let me show you exactly that because
2 this chart proves the same thing. It proves Roundup
3 is not resulting in cancer.

4 This is what would happen if the data
5 supported plaintiffs' claims. There would be that
6 latency period, and then you would see the increase
7 coming after the increase in Roundup. That's not
8 what the data shows.

9 And here's just another example. It's
10 exactly what you see with cigarette use and lung
11 cancer. It's not what you see with Roundup and
12 non-Hodgkin's lymphoma.

13 So let's talk briefly about the EPA and
14 the other regulatory bodies around the world.

15 You saw the EPA has considered all of
16 this science. They have an extensive database that
17 exists for evaluating the carcinogenic potential of
18 glyphosate, including 63 epidemiological studies --
19 so all of those involve Roundup, not just
20 glyphosate -- 14 animal studies, and nearly 90
21 genotoxicity studies.

22 And they concluded here in December 2017
23 the available data at this time do not support a
24 carcinogenic process for glyphosate. Overall,
25 animal carcinogenicity and genotoxicity studies were
26 remarkably consistent and did not demonstrate a
27 clear association between glyphosate exposure and
28 outcomes of interest related to carcinogenic

1 potential.

2 They made the same conclusion in 2017, in
3 the same document. Furthermore, data from
4 epidemiological and animal studies do not reliably
5 demonstrate expected dose-response relationships.

6 In genotoxicity studies, there was no
7 convincing evidence that glyphosate is genotoxic in
8 animals via the oral route. The strongest support
9 is for "not likely to be carcinogenic to humans."

10 2020, the EPA did not identify any human
11 health risks from exposure to glyphosate.

12 So what is it that the plaintiffs say?
13 Why is it that they say you shouldn't really care
14 about what the EPA said? Yes, they're respected
15 scientists at the EPA. They looked at a lot of
16 data. But they keep saying, well, it's because it's
17 about the food supply.

18 That's what they said in opening. They
19 said it again here today. Dr. Sawyer said it,
20 Dr. Jameson said it.

21 But what do the documents show? And they
22 cut the top line in their closing today about diet
23 food and water exposures are anticipated from
24 applications to crops.

25 But look at the rest of what the EPA
26 said. Since there are registered uses of glyphosate
27 that may be used in residential settings,
28 residential handlers may be exposed to glyphosate

1 during applications.

2 The agency considers all of the
3 anticipated exposure pathways as part of their
4 evaluation for human health.

5 The EPA thoroughly assessed risk to
6 humans from exposure to glyphosate from all
7 registered uses and all routes of exposure and did
8 not identify any risks of concern. That includes
9 residential people spraying in their yard.

10 And it isn't just the EPA in 2017, 2019,
11 2020. It's New Zealand, you saw, in 2016: Unlikely
12 to be carcinogenic or genotoxic.

13 Canada, 2017: Not genotoxic and unlikely
14 to pose a human cancer risk.

15 Australia: Does not pose a carcinogenic
16 or genotoxic risk.

17 Europe: No hazard classification for
18 carcinogenicity is warranted.

19 Canada again, 2019: Not genotoxic and
20 unlikely to pose a human cancer risk.

21 And all of this happened after IARC.
22 Every one of these agencies went and looked back at
23 all of the data after IARC to see if they needed to
24 re-evaluate and reconsider. And they all said no,
25 it doesn't cause cancer.

26 And a couple of the agencies actually
27 responded directly to IARC. So you saw this. And
28 this isn't an attack on IARC. IARC does what it

1 does. That's why they find hot water or hot drinks
2 to potentially cause cancer. It's why night-shift
3 work potentially causes cancer. Dr. Jameson
4 explained those things. But it just plays a
5 different role. It's not doing a risk assessment
6 for what humans are exposed to through any route in
7 the real world.

8 So in 2019 the EPA said -- they looked at
9 IARC's classification, and they said: The EPA
10 conducted an independent evaluation of the
11 carcinogenic potential of glyphosate and has
12 determined that glyphosate is not likely to be
13 carcinogenic to humans.

14 Canada did the same thing. They did a
15 re-examination, you can see at the top, and they
16 said glyphosate is not genotoxic and is unlikely to
17 pose a human cancer risk:

18 "After a thorough scientific review, we
19 have concluded that the concerns raised by the
20 objectors" -- that's that IARC found this
21 determination -- "could not be scientifically
22 supported when considering the entire body of
23 relevant data. The objections raised did not create
24 doubt or concern regarding the scientific basis for
25 the 2017 re-evaluation decision for glyphosate.
26 Therefore, the Department's final decision will
27 stand."

28 So I just want to comment briefly because

1 you heard about the Canadian label. The Canadian
2 label has nothing to do with anything you are being
3 asked to decide. Clearly, Canada does not believe
4 that Roundup causes cancer or is genotoxic.

5 Now, there are concerns about Roundup
6 getting in your eyes, you heard from Dr. Cooper, if
7 it gets too much on your skin.

8 But you have pictures of the Roundup
9 bottle that was found in Ms. Clark's garage. And it
10 says on the front: "Keep out of the reach of
11 children. Caution."

12 It says on the back, if it gets in your
13 eyes, it talks about washing your eyes for 15 to
14 20 minutes. It says "call Poison Control" and gives
15 a number.

16 I just want to be clear, this has nothing
17 to do with anything. It doesn't have to do with
18 whether it causes cancer.

19 But the Roundup label in the United
20 States says: "Keep out of the reach of children.
21 Caution." And then talks about what should you do,
22 about calling Poison Control, if it gets in your
23 eyes.

24 And that's Exhibit 3859.

25 Now, how do you also know that IARC isn't
26 what matters in the real world where there are real
27 doctors who have to take care of patients who
28 unfortunately have pediatric cancer and talk to

1 their families?

2 Dr. Cooper told you. It isn't because
3 she's inexperienced. IARC just doesn't matter in
4 the real world.

5 Mr. Trammell asked her: "And is IARC a
6 highly prestigious organization?"

7 She said: "I don't know how to answer
8 that."

9 "You don't know the answer?"

10 "I don't have a ranking system for highly
11 prestigious."

12 "You don't think of it as highly
13 prestigious?"

14 "I had never heard of it before this
15 case."

16 "You had never heard of IARC before this
17 case?"

18 "That is true."

19 And you'll recall that Dr. Cooper does
20 two important things. One, at Johns Hopkins, one of
21 the leading hospitals in the world, she sits on
22 weekly tumor boards. Do you recall that?

23 She sits with both adult doctors who are
24 treating cancer, meaning doctors who are treating
25 adult cancer, and doctors who are treating pediatric
26 cancer.

27 And it's oncologists, surgeons,
28 pathologists, radiologists, and they all come

1 together and discuss their cases and discuss what
2 may have caused the cancer and what they needed to
3 do to treat the patient.

4 These are the leading doctors in the
5 country.

6 She also is part of something called the
7 Children's Oncology Group. Remember, she said she
8 gets emails every day, and they talk three times
9 every month. And these are the leading pediatric
10 oncologists in the country.

11 And she told you that she has never heard
12 Roundup or glyphosate discussed in any of those
13 meetings. She has never heard a doctor at her
14 institution or at the Children's Oncology Group say
15 that Roundup caused someone's cancer, may have
16 caused someone's cancer: There is a concern, we
17 should look into this.

18 And that's because it doesn't cause
19 cancer. Because what you have to believe to believe
20 that Roundup causes cancer is that Dr. Cooper, every
21 one of her colleagues at Johns Hopkins, and every
22 one of the leading pediatric oncologists that are
23 part of this group have no idea what they're talking
24 about and have no idea what they're doing.

25 But that can't be the case. And
26 Dr. Sawyer and Dr. Fish's four studies don't change
27 that. They don't change what the best doctors in
28 the world do in the real world to take care of their

1 patients.

2 So this is one of the instructions that
3 you've received. You should use your common sense
4 and experience in deciding whether testimony is true
5 and accurate. And that's all we're asking. Use
6 your common sense.

7 We've talked about you all have different
8 backgrounds, different experiences, different
9 opinions, but if you use your common sense, there's
10 a few things that are clear.

11 First, what do you have to believe to
12 rule for the plaintiff? They have the burden. They
13 start at zero. You have to believe that Ms. Clark
14 sprayed in 2011 and 2012.

15 And you saw the clear, under-oath
16 testimony that she did not.

17 You have to believe that when Ms. Clark
18 sprayed -- sorry -- that Ms. Clark sprayed for all
19 of 2015, every weekend, when she was being treated
20 for cancer: undergoing radiation, undergoing
21 chemotherapy, going to the hospital at different
22 times for her pain.

23 And she admitted in the deposition that
24 did not happen because, of course, it didn't happen.

25 You have to believe that Mrs. Crenshaw
26 bought 52 bottles of Roundup every single year.
27 52 bottles for that yard. She didn't remember in
28 her deposition. She admitted that they typically

1 were together, meaning Mrs. Crenshaw and
2 Mr. Crenshaw, when they purchased Roundup.

3 She admitted -- Mr. Crenshaw said two
4 bottles was plenty of Roundup for what he had to buy
5 for their yard. And she admitted that her husband
6 would not have been lying, Mr. Crenshaw would not be
7 lying, if he said that they bought two bottles per
8 year together.

9 You have to believe that Mrs. Clark had
10 to spray every week, even with a gardener, who was
11 paid to handle the weeds, and Mr. and Mrs. Crenshaw
12 spraying and pulling weeds.

13 And here's the testimony, just so it's
14 clear, that they had a gardener who was paid to
15 handle the weeds.

16 Mrs. Crenshaw admitted it. Look at the
17 last Q&A. "That's one of the things that you hired
18 him for, correct?"

19 "Right. To maintain the yard and the
20 weeds and all of that."

21 And then Mia Romero also said she
22 remembered the gardeners spraying in the same areas,
23 on the patio, around the pool, on that other little
24 patio area.

25 And you also heard Mrs. Crenshaw say the
26 Roundup was always in the garage. But then you
27 heard counsel again say, well, it was on that patio.

28 There are just so many inconsistencies

1 and explanations.

2 And then you have to believe that Ezra
3 Clark was always by his mother's side when she
4 sprayed. Every single time that she sprayed.
5 That's what they're telling you to meet their
6 burden.

7 No one ever saw it.

8 The bouncy seat. And I don't want to
9 talk about the bouncy seat for too long, but if
10 there's any parent here, you know that the purpose
11 of the bouncy seat is to make your young child calm
12 and stay in one place so you can move around in that
13 same area. You don't put a baby in a bouncy seat
14 and then walk over a few steps and carry the bouncy
15 seat, and then walk over a few more steps and then
16 carry the bouncy seat.

17 But that's what they're trying to tell
18 you happened.

19 You also heard that Ezra Clark had a
20 fenced-in area where he played with his sister. He
21 wasn't always around his mom. And you heard that
22 Ezra Clark's grandparents would not let him be
23 outside if Roundup was being sprayed.

24 That's what Mrs. Crenshaw told you under
25 oath.

26 There are two other things before I sit
27 down that I just want to briefly comment on. And
28 lawyers, as you can imagine, love to get the last

1 word. This is my last word, because they have the
2 burden, so plaintiffs' counsel will get up one more
3 time to do a short, final argument.

4 But he should have to respond to each of
5 these things. If he can't persuade you about 2011
6 to 2012; 2015, when Ms. Clark was sick; why no one
7 ever saw it; how Ezra Clark was always around his
8 mom; IARC; the Canadian label; the four Dr. Fish
9 studies -- make him respond to these issues.

10 And make him respond to these last two.
11 Because what would you expect a parent to do if they
12 thought that Roundup caused their parent's -- sorry,
13 their child's cancer? Would you expect them to go
14 to the doctor who was in the middle of still
15 treating for that patient to find out, to see if
16 there was any validity to it?

17 But Ms. Clark told you that she never
18 talked to any of the doctors about a possible
19 connection between Roundup and Ezra's cancer: "I
20 haven't spoken to anybody except for my parents and
21 Jake and Mia in regards to the deposition." And she
22 admitted that she never spoke to Dr. Kirov about her
23 suspicions.

24 She also never asked anyone to stop using
25 Roundup. They need to explain that. Because in
26 2018, when you called a Facebook lawyer's ad and you
27 believe it's Roundup that caused your child's
28 cancer, you would turn to your parents and your

1 ex-husband and anyone and say, "You need to stop
2 spraying."

3 But she admitted she never asked either
4 of them. That was a question about her parents,
5 Mr. and Mrs. Crenshaw, to stop using it. And she
6 said, "I didn't need to."

7 So this is the verdict form. It is a
8 simple question: "Was Ezra Clark's exposure to
9 Roundup a substantial factor in causing his
10 Burkitt's lymphoma?"

11 And common sense in the evidence can only
12 lead you to one answer.

13 This is not a popularity contest. This
14 is not a referendum on Monsanto. It's not even a
15 referendum on Roundup.

16 This is the question that you are being
17 asked to answer, and the objective evidence
18 overwhelmingly says that the answer is "No."

19 You have been a -- in COVID even more so,
20 it's been a remarkable experience to just have
21 everyone come every day, on time, and pay attention.
22 And that has happened. So both sides are grateful
23 for that.

24 We're confident that, when you go back,
25 remove sympathy, look at the objective evidence,
26 focus on the 80 hours, you'll come to the right
27 answer, which is that Roundup did not cause Ezra
28 Clark's Burkitt's lymphoma.

1 Thank you.

2 THE COURT: So, ladies and gentlemen,
3 we're getting very close. There is a rebuttal, and
4 as indicated, the party that does have the burden of
5 proof gets the opportunity for rebuttal.

6 I think it's best if we just take five
7 minutes. Do not discuss the case. Do not form or
8 express an opinion. Giving you an opportunity to
9 stretch. We'll see you in five minutes.

10 (OFF THE RECORD; BRIEF RECESS
11 ENSUED.)

12 (THE FOLLOWING PROCEEDINGS WERE
13 HELD IN OPEN COURT IN THE PRESENCE
14 OF THE JURY:)

15 (REBUTTAL CLOSING ARGUMENT.)

16

17 THE COURT: Mr. Trammell.

18 MR. TRAMMELL: Okay. So I just want to
19 clear something up. If anybody in deliberations
20 says anything about 52 bottles or 50 bottles or
21 30 bottles or 80 hours or 90 hours or 30 hours,
22 please remind everyone that's not in your
23 instructions, and it's not on the verdict form.

24 So what you have to find is whether
25 Ezra's exposure -- and you've heard the evidence
26 about it -- was a substantial factor in him getting
27 Burkitt's lymphoma. And we've talked about that.
28 It's got nothing to do with the number of bottles,

1 all right.

2 So we talked about Dr. Cooper, Monsanto's
3 expert, how she doesn't talk about Roundup exposure
4 with her patients when the kids come in with cancer.

5 And no treating oncologist does. And the
6 reason they don't is because, number one, it doesn't
7 help them treat an existing cancer. All they're
8 trying to do is treat a cancer. What caused it
9 doesn't matter to them.

10 And, two, the last thing they want to do
11 is tell a parent, "Something you exposed your kid to
12 may have caused their cancer." They just don't do
13 that. That's the last thing that parent needs to
14 hear at that moment.

15 They need to hear how the cancer is going
16 to get treated and how that kid's going to get
17 better. So that's why they do that.

18 Again, on Dr. Cooper, she's their expert
19 to say that IARC is wrong, all right? That's her
20 job, to say Roundup doesn't cause cancer and IARC is
21 wrong.

22 Dr. Cooper testified she spent about
23 30 hours developing that opinion, 10 of which were
24 getting ready for her deposition, okay?

25 So Dr. Cooper spent about half a workday
26 for about a workweek developing that opinion that
27 Roundup doesn't cause cancer, while the leading
28 cancer researchers in the world spent six months

1 reading all of the information, paying attention to
2 all the science, learning it all, and then got
3 together for a week to all reach the unanimous
4 conclusion that Roundup causes human cancer.

5 Among those scientists were scientists
6 from the National Cancer Institute, who we've all
7 talked about and say are the gold standard in cancer
8 research. They agree that Roundup causes human
9 cancer.

10 So I guess the last thing is, you know,
11 there was a lot of talk about how there aren't
12 studies of kids. And it's true that kids don't
13 spray Roundup. Ezra didn't spray Roundup. Ezra was
14 sitting next to his mom while she sprayed it and got
15 it on him.

16 But kids are humans. Kids do have
17 lymphatic systems just like adults do. So if
18 something is causing a cancer in a human lymphatic
19 system, then that is instructive about whether it's
20 going to cause cancer in kids.

21 You know, again, we've talked with
22 Dr. Cooper about the DNA damage issue. Remember, I
23 showed her that paper, and I said, "Is this paper
24 the paper that supports your opinion that Roundup
25 doesn't cause cancer?"

26 And remember, in every human experiment
27 in that paper they showed DNA damage. There were
28 some negative tests for things like fish larvae and

1 other stuff, but every human test showed DNA damage,
2 which, again, is the building block of all cancers.

3 And I think that's it. I mean, I think
4 when you look at the evidence in this case, with the
5 clear evidence of Roundup in laboratory experiments
6 causing the exact DNA damage that causes Burkitt's
7 lymphoma. Dr. Cooper acknowledged in the animal
8 evidence the cancer risk is as strong as it is with
9 the tobacco animal studies, and that when you look
10 at all the human data together, it is clear that
11 Roundup exposure raises your risk for non-Hodgkin's
12 lymphoma.

13 This boy was extensively exposed to
14 Roundup when nobody knew that it could be harmful to
15 him. He developed the exact kind of DNA damage that
16 Roundup causes and that causes Burkitt's lymphoma,
17 and he got Burkitt's lymphoma after being exposed to
18 the chemical for most of his life.

19 Thank you. And we'll be asking you
20 again, please, the evidence leads to a "Yes"
21 verdict. Thank you.

22 THE COURT: Thank you.

23 Ladies and gentlemen, we gave you a new
24 packet of jury instructions, and that's the one you
25 should refer to during your deliberations.

26 We saw that there were some typos in the
27 original. There was reference to a bailiff, and
28 changes that to a court attendant, Maria. And then

1 it clarifies the plaintiff has the burden of proof.

2 So, again, the document that you should
3 refer to as to my instructions to you on the law is
4 what is included in updated jury instructions.

5 Let me read two more instructions that I
6 held off on: The jury will soon begin deliberating,
7 but you, alternate jurors, continue to be alternate
8 jurors and are bound by my earlier instructions
9 about your conduct.

10 Until the jury is discharged, do not talk
11 about the case or about any of the people or any
12 subject involved in it with anyone, not even your
13 family or friends, not even with each other.

14 Do not have any contact with the
15 deliberating jurors. Do not decide how you would
16 vote if you were deliberating. Do not form or
17 express an opinion about the issues in this case
18 unless you are substituted for one of the
19 deliberating jurors.

20 To all of you: After your verdict is
21 read in open court, you may be asked individually to
22 indicate whether the verdict expresses your personal
23 vote. This is referred to as polling the jury and
24 is done to ensure that at least nine jurors have
25 agreed to each decision.

26 During the trial, materials have been
27 shown to you to help explain testimony or other
28 evidence in the case. Some of these materials have

1 been admitted into evidence, and you will be able to
2 review them during your deliberations.

3 Other materials have also been shown to
4 you during the trial, but they have not been
5 admitted into evidence. You will not be able to
6 review them during your deliberations because they
7 are not, themselves, evidence or proof of any facts.

8 You may, however, consider the testimony
9 given in connection with these materials.

10 So with the need to continue the social
11 distancing, we are going to have you deliberate in
12 the courtroom. Once we start this process, none of
13 us will come back into the room until you have
14 reached a final decision.

15 I normally sit in my chambers when I have
16 Zoom hearings on 99.99 percent of the cases. I will
17 continue to do that while you're deliberating and
18 then the staff will be in another room outside of
19 this.

20 So this is your jury room on the
21 deliberations. Maria will continue to be your
22 voice, your sounding board, your director, if you
23 will. And she'll work out a process where you can
24 call her when you're ready to take a break, if you
25 have any questions, whatever else it might be.

26 I generally say to jurors: You decide
27 now the schedule. But I have to ask that you not
28 start before 9:15, just because of the logistics of

1 my handling my other cases.

2 You still need a break for an hour and a
3 half during lunch. You can decide when that break
4 starts and, obviously, then, an hour and a half,
5 when it ends.

6 You can take as many breaks as you want
7 in the morning and in the afternoon, just coordinate
8 that with Maria.

9 You do have to finish no later than 4:30.
10 So if you want to end earlier than that, you're
11 welcome to do that.

12 So within those parameters -- start at or
13 after 9:15, break for an hour and a half for lunch,
14 and end no later than 4:30 -- you can decide your
15 schedule. Okay.

16 So I think -- what I think the best
17 logistics will be: If I can ask those in the
18 audience to walk out; the lawyers, I need to talk to
19 you for a little bit, so if you can come with me
20 into chambers; and then others, if you can walk out
21 into the hallway.

22 While they're walking out, we'll have the
23 court attendant sworn in, please.

24 THE CLERK: Do you solemnly swear that
25 you will take charge of the jury or jurors and the
26 alternate jurors and keep them together; that you
27 will keep them together; that you will not
28 communicate with them yourself nor allow anyone else

1 to communicate to them upon matters connected with
2 the case, except on order of the Court; and, when
3 they have agreed upon a verdict, you will return
4 them to the court, so help you God?

5 COURT ATTENDANT: I do.

6 THE COURT: I do have one more thing,
7 ladies and gentlemen. We've always been telling you
8 not to discuss the case. And now you can, but it
9 has to be with, and only with, the other jurors
10 during deliberations.

11 Now you can form and express an opinion,
12 again, when you're with the other jurors.

13 I've also been telling you that the
14 lawyers obviously cannot talk with you. We're in a
15 sort of cramped area in the hallways, coming in and
16 out of the escalators and so forth, and I've always
17 tried to emphasize that it's easiest for them that
18 they not even create eye contact with you.

19 They're not being antisocial, it's just
20 they're following to the letter of the law and the
21 rules that I have given them.

22 Okay. Thank you very much, everybody.
23 Counsel.

24

25 (THE JURY COMMENCED THEIR
26 DELIBERATIONS AT 11:38 A.M.)
27 (IN CHAMBERS CONFERENCE HELD
28 REPORTED AS FOLLOWS:)

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THE COURT: On the record outside the presence of the jury. And we were going to discuss the photos, some photos?

MS. SAULINO: Yes, your Honor. This morning when we were discussing the photos that were admitted and should go back to the jury, your Honor asked us to identify the photos that we, the defense, were identifying as those that should go back.

And there are two that were used with Ms. Destiny Clark, Exhibit 3882 and Exhibit 3867.

THE COURT: Okay.

MS. SAULINO: Which I have right here for you to take a look at. Both were used with Ms. Destiny Clark. Both identify areas where she was spraying.

THE COURT: Okay. So these did not come in through the expert, but from Ms. Clark.

MS. SAULINO: These were with Ms. Clark, yes.

THE COURT: Any your objection to their admission?

MR. TRAMMELL: No.

THE COURT: So both are admitted.

(RECEIVED IN EVIDENCE EXHIBIT
NOS. 3882 and 3867.)

1 MS. SAULINO: Thank you, your Honor.

2 THE COURT: I should put on the record
3 that I gave instructions to the alternate jurors
4 that they're to stay in the courtroom but to be
5 physically separate, not say anything, not
6 participate in any way.

7 Anything else for now? No? Okay. We're
8 off the record.

9

10 (OFF THE RECORD; RECESS ENSUED.)

11 (THE FOLLOWING PROCEEDINGS WERE

12 HELD IN CHAMBERS OUTSIDE THE

13 PRESENCE OF THE JURY.)

14

15 THE COURT: So we have the defendants'
16 motion to exclude testimony of Charles Benbrook,
17 Ph.D. Reviewed the motion, opposition, and reply,
18 the now focused argument, I have an agreement with
19 Judge Goode from the Caballero case, which is
20 Exhibit 6 to the moving papers, and page 28 as
21 marked in the document, because this is an excerpt
22 of a long ruling that he made.

23 But it starts off with which one -- which
24 items he is agreeable -- was agreeable and which
25 topics are not.

26 So, Ms. Ephron, I think that's the best
27 way to give you direction. I generally would be
28 ruling consistent with Judge Goode. If you want to

1 take them one by one, we can do that. Or whichever
2 way you want to approach it.

3 MS. EPHRON: Certainly, your Honor, to go
4 back to Dr. Benbrook's credentialing, so essentially
5 plaintiff is offering Dr. Benbrook as a standard of
6 care expert in the realm of --

7

8 (COURT REPORTER CLARIFICATION.)

9

10 THE COURT: Would you start from the
11 beginning, please.

12 MS. EPHRON: Yes, your Honor. If you
13 would like to move one by one through the Caballero
14 ruling, I would certainly be happy to do that.

15 THE COURT: Okay. I think that might be
16 best. That way we're focused on whether it's
17 qualification issues, admissibility issues, et
18 cetera.

19 So the first one is his work as counsel
20 to the House subcommittee, testimony about his
21 percipient knowledge of the subcommittee's
22 investigation into and findings regarding the
23 Industrial Bio-Test studies.

24 And I agree that it would still be within
25 the realm of the Evidence Code, so I would agree
26 that that would be admissible.

27 Any argument by defendant?

28 MR. GOSTIN: Yes, your Honor, a couple of

1 things. I'm Kieran Gostin. It's nice to talk to
2 you.

3 THE COURT: Whatever is more comfortable,
4 would you like to sit?

5 MR. GOSTIN: It's easier with the binder
6 to sit, if you don't mind.

7 THE COURT: Not at all.

8 MR. GOSTIN: So only a couple things
9 about this.

10 One, there is an outstanding motion in
11 limine. I believe you actually granted it as to
12 Phase 1 and Phase 2 but said you would entertain
13 further argument about it from plaintiffs.

14 So there are a bunch of issues about what
15 would be appropriate under the IBT fraud story. For
16 example, we just got plaintiffs' exhibits last
17 night, and there are a bunch of documents there that
18 look to be like criminal pleadings from the
19 underlying fraud case which involves IBT, a third
20 party.

21 It doesn't involve Monsanto in any way.
22 They weren't engaged in the fraud and they're not
23 accused of it, and I don't think plaintiffs are
24 claiming that. So certainly any documents about the
25 underlying fraud I don't think would be relevant or
26 should come in.

27 So I think subject to sort of generally
28 whether the information should come in, I think most

1 courts have allowed him to testify in some limited
2 capacity about IBT, and we would be fine with
3 following Caballero's instruction on that.

4 THE COURT: And won't we be able to
5 address your concern by you telling me which
6 documents should not be referenced?

7 MR. GOSTIN: So I think it's a series of
8 documents, which we can provide, your Honor. I
9 think anything about the underlying fraud, which has
10 nothing to do with Monsanto, shouldn't come in.

11 I think the simple fact that some of the
12 studies had to be redone according to the EPA, that
13 could come in.

14 So it's really just limiting the story to
15 the facts that are relevant to that.

16 MR. TRAMMELL: So, just to provide some
17 context for the Court, there's a toxicologist at
18 Monsanto named Paul Wright who goes over to IBT at
19 the time they're doing the animal cancer study for
20 Roundup, for the initial approval. He doesn't work
21 on that study, he works on different studies. And
22 then comes back to Monsanto a year later, in 1971 or
23 '72, I forget the date now.

24 EPA doesn't -- they submit that study to
25 the EPA, claiming it's proof of Roundup's safety.
26 EPA approves Roundup based in part on that study.

27 And then in a routine field audit in, I
28 think, '76 or '78, EPA discovers that all of this

1 data has been fraudulent -- most of the data has
2 been fraudulently generated, deliberately so, by
3 scientists at IBT, including Mr. Wright and
4 including the scientists who did oversee the Roundup
5 mouse cancer study.

6 Both were convicted for scientific fraud.
7 Both went to jail. I think Mr. Wright was cuffed at
8 Monsanto headquarters. And so we have these
9 certified copies of the conviction documents from
10 both men's convictions.

11 And the critical thing here is that as
12 soon as Mr. Wright goes back to Monsanto, Monsanto
13 knows those studies were generated in a fraudulent
14 manner and tells no one about it. Doesn't tell the
15 EPA once the product is approved. Doesn't tell its
16 customers.

17 After the EPA discovers it --

18 THE COURT: Let me stop you really quick.
19 And what is the evidence of that, of Monsanto's
20 knowledge of the fraud?

21 MR. TRAMMELL: The fact that Mr. Wright
22 went to IBT, engaged in criminal conduct for which
23 he was convicted of fraud, and then goes back to
24 Monsanto as their chief toxicologist in charge of
25 products like Roundup. So it's certainly
26 circumstantial evidence of that.

27 And then once the EPA determines that the
28 study is fraudulent and calls the study invalid and

1 tells Monsanto to redo the study, which they don't
2 do until 1983, when they complete that study, and it
3 shows that Roundup is a carcinogen.

4 So the entire timeline is relevant to
5 whether Monsanto has committed fraud in the way that
6 it's marketed Roundup, the safety claims it's made
7 about Roundup.

8 And I would agree that, you know, there
9 was limited evidence of relevance if Mr. Wright
10 hadn't gone to IBT for a year and come right back as
11 an executive in charge of toxicology at Monsanto,
12 knowingly having committed crimes while at IBT and
13 knowing that the person who was overseeing the mouse
14 cancer study was also committing those crimes. And
15 was convicted for them.

16 MR. GOSTIN: So, your Honor, a few
17 things. One, I think it's worth just setting the
18 stage that this is something that happened in the
19 1980s, you know a full 25, 30 years before the
20 spraying in this case. So I think any relevance is
21 minimized by that.

22 Number two, the idea that there is some
23 sort of circumstantial evidence that Monsanto knew
24 about the fraud because of this employee, there is
25 no evidence at all of that.

26 I don't think -- Mr. Stekloff will
27 correct me, but I don't think any Court has allowed
28 that to come into evidence, and I don't see what

1 would be the basis for it.

2 THE COURT: I'm sorry, what is "it"
3 coming into evidence?

4 MR. GOSTIN: The idea that Monsanto was
5 somehow aware of the fraud before the EPA was.

6 MR. STEKLOFF: Almost every Court, if not
7 every Court, has precluded the exact argument that
8 Mr. Trammell just made about connecting -- saying
9 that Monsanto knew about what happened at IBT,
10 simply because this Paul Wright was at IBT and then
11 came to Monsanto, because there is no evidence that
12 he told Monsanto about anything that had occurred at
13 IBT, and he wasn't even involved, as Mr. Trammell
14 said, in the study that's at issue.

15 And I think the other context to give
16 your Honor is that this wasn't an isolated incident
17 of this one animal study and Monsanto. There's a
18 chart. There were literally dozens, if not hundreds
19 of studies conducted by, I think, dozens of
20 companies that were all subject to potential fraud
21 by the people at IBT, unbeknownst to the companies
22 that were hiring IBT to run the studies.

23 So the EPA then had to go through those
24 studies and make a determination about whether or
25 not the studies could remain valid or be
26 invalidated.

27 And it is true that the animal
28 carcinogenicity study that was conducted by IBT in

1 approximately 1970-1971 was invalidated by the EPA.

2 But I think that to call it even
3 circumstantial evidence, that is a huge stretch to
4 argue that that is circumstantial evidence; that
5 somehow Monsanto knew what Mr. Wright was doing at
6 IBT. There was just no evidence of that.

7 MR. TRAMMELL: So, as far as I know,
8 certainly in Pilliod, and Ms. Ephron will know if
9 this happened in Caballero, but we were allowed the
10 inference because we were allowed to say that the
11 EPA had found scientific fraud at IBT and that Paul
12 Wright had worked at Monsanto, gone to IBT and come
13 back and been convicted of scientific fraud as a
14 Monsanto employee.

15 So I'm not going to say that there is
16 evidence that he communicated all of this to
17 Monsanto. The fact is the timeline just is what it
18 is.

19 MR. STEKLOFF: But it has no relevance.
20 It's 352. It has no relevance if Monsanto didn't
21 know because it is making -- no matter how you view
22 it, it's making the insinuation that Monsanto did
23 know.

24 And so there's just no evidence of that.
25 It is fine if your Honor is saying, even though it's
26 30 to 40 years old, for the IBT story to come in in
27 the following way: Monsanto hired IBT to conduct an
28 animal study. IBT conducted many animal studies for

1 many different companies. Ultimately there were
2 individuals at IBT who were committing fraud in
3 those animal studies. They were convicted.

4 Therefore the EPA had to invalidate a
5 large number of studies that were conducted by IBT.
6 One of the studies that was invalidated was the
7 animal carcinogenicity study that was required for
8 the initial EPA approval. Then the timeline
9 continues.

10 Once that happened, Monsanto had to
11 conduct yet another animal carcinogenicity study.
12 The study that was conducted is the Knezevich and
13 Hogan study that your Honor is familiar with. So
14 that's Reyna in the 2017 EPA document. This is the
15 Reyna story.

16 Then it transitions to the Knezevich and
17 Hogan story, which becomes, if your Honor allows it
18 in Phase 2, with more information in terms of
19 what -- of initial determination of a class C
20 oncogene by the toxicology group, and then the
21 pathologist who comes in and finds a tumor in the
22 control group. And so there's that factual dispute
23 about what happened.

24 Then that transitions to the 1990s, when
25 there is a different animal study that the EPA
26 accepts.

27 So what the plaintiffs like to argue is
28 that there is this initial 20 -- approximately

1 20-year period where Roundup's on the market, and
2 the other lawyers have argued that it was born in
3 fraud, is the phrase that was used, because of the
4 IBT story.

5 If your Honor thinks that is relevant,
6 despite the age, we don't have an objection to those
7 facts and the documents supporting them coming in.
8 The Paul Wright aspect is unnecessary and I think
9 prejudicial and unestablished in terms of what is
10 being suggested.

11 THE COURT: What does it mean that he is
12 "chief of toxicology"?

13 MR. TRAMMELL: I'm not sure that was his
14 title, your Honor. He was one of the leading
15 toxicologists at Monsanto. I don't want to imply
16 that I'm certain that's what his title was.

17 THE COURT: Well, that is a lynchpin in
18 this.

19 MR. TRAMMELL: It is in the convicting
20 documents -- or it's in the indictment, at least.
21 So we can find that and get it to your Honor.

22 THE COURT: So what I mean by that is if
23 he's in charge of toxicology for Monsanto, I don't
24 think he has to say anything to anybody.

25 If he's, we'll just say, a lab assistant,
26 taking it to the other extreme, then that's very
27 easy too.

28 So really it comes off as to how much is

1 he in charge of running, whatever you want to --
2 verb you want to use, the toxicology department.
3 And I think that could become Monsanto's knowledge
4 if he is high enough.

5 MR. TRAMMELL: So we'll get your Honor
6 the indictment. It's all laid out in the
7 indictment. I think that will answer your question.

8 THE COURT: I don't know if it does,
9 though.

10 MR. TRAMMELL: Oh.

11 THE COURT: He might have a title.

12 MR. TRAMMELL: I'll get you the title,
13 that's fine.

14 THE COURT: He could be vice president
15 and almost have the same range of responsibility
16 that I just laid out. So it's not the title. It's
17 really the factual description of his authority and
18 responsibility and how much he can act on behalf of
19 Monsanto.

20 MR. TRAMMELL: So there is a definite
21 answer to that question, and we'll get it to you.

22 MR. STEKLOFF: Yeah, I apologize that I
23 also don't know the answer off the top of my head.

24 I would still like to argue, even if he
25 did have a more senior toxicology role, why it
26 doesn't reflect on the -- he wasn't involved in that
27 study that was done in 1970 or 1971. Monsanto, when
28 they hired him, did not know about any of this

1 fraud.

2 And so even in engaging in further
3 toxicology, to be clear, on many other products that
4 Monsanto is manufacturing at the time, I don't think
5 there is that connection there that the period
6 between, you know, approximately 1971 and then his
7 conviction, I don't remember the exact dates, but
8 say 1980, where there's not even at that time a
9 suggestion that anything needs to be done within
10 Monsanto of the animal carcinogenicity.

11 Roundup is approved by the EPA in 1974,
12 and there is no requirement that they cannot conduct
13 another animal carcinogenicity study.

14 So the fact that he's there, even if he's
15 doing many other things as a toxicologist, I still
16 don't think it proves the point that's being
17 suggested that somehow Monsanto knew what he had
18 done -- sorry, to be clear -- what other people at
19 IBT had done just by his mere presence, even if he
20 was senior at Monsanto.

21 THE COURT: So I do need to know more.
22 Because I hear your argument about he's not
23 participating directly in this one study, but,
24 again, let's create a hypothetical, he's aware of
25 all but two studies having some fraud happening. It
26 may not be this one study, but he's got knowledge of
27 an extensive fraud scheme, then has a high, high
28 level of responsibility at Monsanto, then there is

1 evidence that something more should have been done
2 to make sure that there was not this reliance by
3 EPA.

4 I'm not trying to create facts here. I'm
5 just saying it can go both ways.

6 MR. STEKLOFF: Right.

7 THE COURT: Ultimately, what is the basis
8 for his conviction? Is it because he was aware of
9 just one study and should have done something about
10 it? Was he aware of a number of studies and should
11 have done something about it? So I think we need to
12 know that.

13 MR. STEKLOFF: I think he, himself, was
14 committing fraud at IBT, but in other studies.

15 THE COURT: Right.

16 MR. STEKLOFF: But when he was doing
17 that, he was not a Monsanto employee. Monsanto did
18 not know that at any point until he is charged or
19 convicted.

20 THE COURT: All right. So, again, create
21 a hypothetical. He's involved directly on X-number
22 of studies. One has to assume that same fraud is
23 happening, or arguably. He goes over and he's
24 running the toxicology department, hypothetically,
25 it comes in.

26 If it's the lab assistant example and
27 he's being convicted because of involvement in one
28 and only one study, that's the other extreme, okay?

1 MR. STEKLOFF: I think it will be
2 somewhere in the middle, but we'll see.

3 THE COURT: That's why they make me wear
4 this robe and make decisions.

5 MR. STEKLOFF: I understand.

6 THE COURT: Okay. Anything else on
7 Number 1, Ms. Ephron?

8 MS. EPHRON: Yes, your Honor, just to
9 understand the Court's ruling previously, so for
10 example, in Pilliod versus Monsanto, Dr. Benbrook
11 was able to talk about the IBT investigation, the
12 determination or reasoning behind why the study was
13 deemed to be invalid, separate and apart from the
14 Paul Wright concern. Basically is the Court's
15 ruling, would all of that be admissible in this
16 case?

17 THE COURT: Well, potentially, yes. I
18 know I'm not answering your question. I acknowledge
19 that. Let me know more about how Wright fits in.
20 And looking at Judge Goode's, his percipient
21 knowledge of the investigation and findings may well
22 be admissible. But I'll give you a more definitive
23 answer after we get more information on it.

24 And so talk to me just a little bit more
25 about this issue of Monsanto was told do a study,
26 and it goes a number of years.

27 MR. TRAMMELL: Right.

28 THE COURT: How is that presented to the

1 jury as evidence?

2 MR. TRAMMELL: So the result of the EPA's
3 investigation into IPA -- IPA, that's a beer -- into
4 IBT is what they call a data call-in, which is they
5 are telling Monsanto: We now don't have a long-term
6 mouse cancer study. Go do another one.

7 Monsanto does do another one, sends it to
8 the EPA, and the EPA says: Based on these data, you
9 are a class C human oncogene.

10 Meaning you are a possible cancer causer.
11 It's in an EPA document.

12 So he will explain what the class C human
13 oncogene means from an EPA perspective, what their
14 review is based on and how that categorization fits
15 in with the EPA regulatory scheme. And what the
16 implications of a class C cancer finding would have
17 been for Roundup, given restrictions placed on
18 oncogenes used in the food supply by EPA.

19 MR. GOSTIN: So I think I understand
20 where he is going. I think this is turning into
21 what is the magic tumor story, which is what we've
22 talked about a few times.

23 I think that's not covered by what Judge
24 Goode is talking about here. And the reason it's
25 not is because Dr. Benbrook, when he's talking about
26 this magic tumor story, really what he's doing is
27 just actually narrating EPA memos, Monsanto memos.
28 He's opining about their motive and intent, what

1 they did.

2 So this is exactly the type of testimony,
3 I think, that Judge Goode was concerned about and
4 was saying he was not going to allow.

5 It's really just a factual narration of
6 the documents, and it's unclear why you need
7 Dr. Benbrook to testify about those.

8 So the magic tumor story certainly can
9 come in through deposition designations, but that
10 doesn't mean that Dr. Benbrook should be testifying.

11 MR. TRAMMELL: Well, I definitely intend
12 to ask Mr. Reeves about it when he's here.

13 But it has a tremendous regulatory
14 significance because if the class C, the carcinogen
15 had stuck, the future of Roundup would have been
16 dramatically different.

17 So there is this multiyear back-and-forth
18 between the EPA and Monsanto regarding Monsanto
19 trying to avert this classification from happening
20 and what they did, what the EPA considered, and what
21 the EPA ultimately decided.

22 THE COURT: All of that sounds relevant
23 and can be heard by the jury. But I understand what
24 you said a moment ago is that it's coming through
25 Dr. Benbrook, and it should not. Whether it's
26 Mr. Reeves -- or is it Dr. Reeves?

27 So if there's a part of his testimony as
28 to how the EPA, in general, responds, that might be

1 admissible; but the rest of what you said, I think,
2 has to come through percipient witnesses.

3 MR. TRAMMELL: Sure.

4 MS. EPHRON: Your Honor, if I may respond
5 to the incorrect account about Dr. Benbrook
6 narrating. Really, Dr. Benbrook's testimony is no
7 different than any other standard of care expert.
8 His testimony is presented in the regular course of
9 litigation. It's going to help the jury in
10 understanding Monsanto's conduct throughout the
11 years and the existing regulatory and pesticide
12 industry standards that have -- that Monsanto was
13 supposed to comply with.

14 This kind of testimony is permitted again
15 and again in California. I think the EPA used it in
16 Kahn versus East Side High School and Intercargo
17 Insurance versus Burlington Northern. And there is
18 really nothing really untoward in the procedure of
19 letting the witness relate information in narrative
20 form, as long as it stays within the bounds of
21 pertinency and materiality, and that's from the
22 Inmate Yasmin [phonetic] case.

23 So in that sense, because Dr. Benbrook is
24 providing information that is useful and complying
25 with California law, there is nothing wrong with him
26 providing sort of narrative form to help the jury
27 better understand these issues.

28 THE COURT: Well, the standard of

1 practice, and it's an opinion of an expert and he's
2 qualified as an expert, you're right. But words
3 like "narrative" don't seem to me to be consistent
4 with that.

5 So he can say that he's qualified,
6 because I know there is an argument he's not. But
7 if he's qualified, he can say that in the, whatever
8 it is, '70s or '80s, other companies were doing A,
9 B, and C. That's fine.

10 But to give the factual summary or
11 narrative, he cannot do that. Okay.

12 MS. EPHRON: Understood, your Honor.

13 THE COURT: Okay. Think we're in
14 agreement, Number 2, he will not testify about what
15 the law requires.

16 MR. TRAMMELL: Right.

17 THE COURT: 3, he can testify about his
18 article of how the EPA and IARC reached
19 diametrically opposed conclusions.

20 Any argument there?

21 MR. GOSTIN: Your Honor, as long as he's
22 within the bounds of what's in that article, I think
23 we'd be fine with it.

24 THE COURT: Okay. Maybe the best thing
25 to do is get me a copy of the article.

26 MR. GOSTIN: Yes, absolutely.

27 THE COURT: So I'm ready for it.

28 I think we're on the same page as far as

1 4, not provide any opinions on interpretation of
2 documents, such as emails, and inferences of
3 knowledge or motive drawn from those documents.

4 Ms. Ephron?

5 MS. EPHRON: Yes, your Honor, I believe
6 we've covered that topic, thank you.

7 THE COURT: Right. And, again, no
8 hearsay at Number 5.

9 And not offer an opinion as to whether
10 EPA should or would have approved an amendment to
11 the Roundup label. Any argument on that?

12 MS. EPHRON: Yes, your Honor. So as
13 stated in his deposition in the Johnson versus
14 Monsanto case, Dr. Benbrook has conducted multiple
15 pesticide labeling reviews and has consulted as a
16 contractor for the EPA. Experts can offer competent
17 opinions based on professional studies or personal
18 experience, and that's per the Wendell versus
19 GlaxoSmithKline case.

20 And California courts have repeatedly had
21 experts testify as to the adequacy of warnings and
22 probability of actions, and that's Jackson vs. Deft,
23 Inc., as well as Fogo versus Cutter Laboratories.

24 In fact, Dr. Benbrook was permitted to
25 testify about the Roundup labeling in Pilliod,
26 Johnson, and most recently in Stephens.

27 So for this reason it's plaintiffs'
28 position that Dr. Benbrook should be able to testify

1 about the Roundup labeling.

2 MR. GOSTIN: So, your Honor, I would just
3 point you to page 28 of Caballero, Judge Goode's
4 order right at the top. Because I'm just -- I'm not
5 sure what Ms. Ephron was saying about his
6 background, but I don't think he has the background
7 to testify about it.

8 So he's never worked for EPA. Indeed he
9 has not worked for the government since
10 January 1984. He does not say that he assisted any
11 client in the registration of a pesticide, nor that
12 he assisted any client in opposing the registration
13 of a pesticide in the last 30 years.

14 He does not say how he knows what EPA
15 does to register a pesticide, other than the most
16 conclusory terms.

17 So then I had a deck that I was going to
18 show you today. There's many sort of admissions I
19 could go through where he says he's not a lawyer, he
20 doesn't have the EPA experience, he's not an expert.

21 And I don't want to misspeak.

22 "Do you have a certification or formal
23 training in the preparation of herbicide labels for
24 EPA review?"

25 "No."

26 THE COURT: Slow down.

27 MR. GOSTIN: Sorry, apologize, your
28 Honor.

1 "Have you prepared herbicide labels for
2 EPA review under FIFRA?"

3 "No, I have not."

4 "Have you published in a peer-review
5 journal any work authored by you on labeling
6 requirements for herbicides under FIFRA?"

7 "Not specifically on labeling
8 requirements, no."

9 So I just, you know -- I just don't think
10 that he has the foundation and the expertise to
11 testify on the EPA labeling. And I think most
12 courts have held that.

13 THE COURT: So, Ms. Ephron, what you
14 argued, I agree with; that many a time someone comes
15 in and gives an opinion to what the label should
16 have been.

17 But that's not what Dr. Benbrook is going
18 to provide, from what I understand. He's going to
19 say that within the regulatory world of EPA, EPA
20 would have approved or should have approved a
21 different type of label.

22 One, I don't think that is appropriate,
23 but I also don't think he's qualified.

24 MR. TRAMMELL: So, your Honor, he's going
25 to say a variety of things. One of them is what the
26 manufacturer's responsibilities are when they become
27 aware of certain safety information having to do
28 with their product and what their relationship is to

1 the authorship of the actual label under the EPA
2 regulations.

3 So he does give both of those opinions.
4 I don't know if it would be more helpful for your
5 Honor to have a 402 before he testifies, because I
6 think he can make clear the basis for his expertise
7 on these topics probably better than I can.

8 THE COURT: Okay. Well, hold that
9 thought. We may end up doing that.

10 Next is not offer an opinion about
11 industry stewardship or any non-regulatory standard
12 of care. Any argument on that?

13 MS. EPHRON: Yes, your Honor. So
14 Dr. Benbrook has 40-plus years, numbers of
15 professional years in pesticide risk valuation and
16 regulatory issues on pesticide standard of care.

17 He's eminently qualified to opine on
18 these topics, and he's been able to do so time and
19 time again, both in the context of the Roundup
20 litigation, such as in Johnson versus Monsanto,
21 Pilliod versus Monsanto, and most recently in
22 Stephens versus Monsanto, but also outside of
23 Roundup.

24 He's been able to testify as to this
25 topic in Adams vs. U.S. where he was able to opine
26 on the role of the registrant, EPA, the registration
27 process, the regulatory framework set up by FIFRA,
28 industry standards, standards for labeling, and his

1 opinion as to whether defendant's conduct satisfied
2 industry standard.

3 So he's well credentialed and has opined
4 on these topics.

5 THE COURT: Okay. I think we'll have to
6 have a short, very focused 402 on Number 6 and
7 Number 7.

8 MR. GOSTIN: Your Honor, could I just
9 point out one thing on Number 7 on industry standard
10 of care. Pilliod, he was not allowed to testify as
11 to that.

12 This is from page 5 of the order: The
13 Court orders that Benbrook may not testify on
14 whether there was a non-regulatory standard of care
15 on registration matters.

16 I don't have the quote in front of me.

17 In Johnson, I believe it was not offered,
18 so the Court didn't address it. But in Pilliod it
19 wasn't allowed, and obviously in Caballero it wasn't
20 allowed, and it wasn't allowed in Hardeman.

21 So no Court has allowed him to testify
22 about that, and I don't think he has the experience
23 to do so.

24 THE COURT: And you may well be right.
25 But getting argument of a different approach and/or
26 opinion than what's in this. So I think a 402 can
27 flush that out.

28 MR. GOSTIN: I understand that, your

1 Honor.

2 THE COURT: Do we have an agreement, no
3 opinion on whether Monsanto misled the EPA?

4 MS. EPHRON: Your Honor, I'm going to
5 leave that to Mr. Trammell's discretion.

6 MR. TRAMMELL: I just don't know what
7 they mean. I mean, he -- so he does say that they
8 were in possession of information and that the regs
9 required them to turn over to EPA and they didn't.

10 THE COURT: Let me stop you real quick.
11 Let's flip. So Number 9 is: May not testify on
12 Monsanto's motive, intent, or state of knowledge.

13 MR. TRAMMELL: Right.

14 THE COURT: So if you have an agreement
15 on that, doesn't Monsanto misleading EPA --

16 MR. TRAMMELL: So we're not going to ask
17 him did Monsanto mislead the EPA? What was
18 Monsanto's state of mind? What were their motives?
19 I'm not going to do any of that.

20 But the problem here, of course, is we're
21 going to be calling other types of testimony that
22 stuff. So I'm trying to make clear on exactly what
23 opinions are at issue here.

24 Because he does say, your Honor, that,
25 you know -- the example that springs to mind is the
26 Perry report. He'll say once they had the Perry
27 report, there is a specific section of the regs that
28 obligates them to turn that over to the EPA, and

1 they didn't do it.

2 But that's the end of his testimony on
3 that topic.

4 THE COURT: Okay. But why does he get to
5 say that instead of my giving the jury an
6 instruction that that's what the law is?

7 MR. TRAMMELL: Well, I mean, he's a
8 regulatory expert. He's an expert on what
9 Monsanto's obligations were with health and safety
10 information to the EPA when they're in possession of
11 that information.

12 So this isn't California State law, this
13 is federal regulatory law that is specific to
14 dealings between the EPA -- or Monsanto and its
15 regulator. So I'm not sure how your Honor would
16 give an instruction on EPA regulations.

17 I mean, he doesn't say they broke the
18 law. He just says there is a reg that requires this
19 kind of information, and the Perry report appears to
20 be the kind of information mentioned in the reg.

21 THE COURT: Well, again, I can give --
22 say, "Ladies and gentlemen, federal law is X."
23 Whether I do that during his testimony or at the end
24 of the case, it's fine.

25 But for him to say that there was a
26 violation of something, that's not his role as an
27 expert.

28 /////

1 MR. TRAMMELL: Sure. I mean, I'm happy
2 to handle that any way your Honor wants, and we can
3 deal with it at the time.

4 THE COURT: I think it assists the jury
5 best if there is a federal regulation that requires
6 Monsanto to do something, I can give it to them
7 right then and there.

8 MR. TRAMMELL: Okay.

9 THE COURT: And, obviously, in advance,
10 they know it's coming. I know what it is. So, it's
11 one thing for him to say it was standard practice to
12 do X or Y, but to say that this fact occurred, and
13 that's a violation, he cannot do that.

14 MR. TRAMMELL: Sure.

15 MR. GOSTIN: Your Honor, could I --

16 THE COURT: Yes.

17 MR. GOSTIN: One point, and I think this
18 is part of the problem with Dr. Benbrook's
19 testimony, is that there are so many things that he
20 could potentially testify about. And what some
21 judges have done, including Judge Goode and Judge
22 Chhabria in Hardeman, it required plaintiffs to give
23 examples like that of exactly what he's going to do
24 so that we can have these debates ahead of time and
25 not end up with numerous objections in front of the
26 jury and sidebars.

27 So I do think it would be helpful if
28 there are those and other things that they plan to

1 testify to potentially relating to any of these
2 topics, they provide that ahead of time in some
3 written form in more detail than they have
4 elsewhere.

5 I think their briefing is very broad, and
6 it's unclear to us and I think to the Court, exactly
7 what's going to be coming in.

8 THE COURT: Well, I think that's why the
9 402 on Number 6 and 7, because everything -- almost
10 everything else can -- cannot testify about
11 something.

12 MR. GOSTIN: Right, but the -- sorry, I
13 don't mean to interrupt. Sorry, your Honor.

14 THE COURT: Go ahead.

15 MR. GOSTIN: The Perry story, for
16 example, I think it's pure -- just a factual -- once
17 you take out what I think you're properly taking
18 out, it's just a factual description that could come
19 in through deposition designations.

20 And I don't think Dr. Benbrook should
21 come in and narrate that story. There is no reason
22 for him to do so based on the other rulings, which I
23 think you're rightfully following.

24 So it's not just take out, oh, that he
25 can't say that he misled the EPA. It's once you
26 take out those things, there's really not much left
27 that is expert testimony from Dr. Benbrook.

28 THE COURT: Okay. But I think by laying

1 this out, it should be shortened.

2 MR. GOSTIN: Understood, your Honor.

3 THE COURT: What's he going to say about
4 the history of glyphosate?

5 MR. TRAMMELL: He talks about -- talks
6 about Monsanto's discovery of glyphosate's
7 herbicidal properties, the regulatory history of the
8 product. And then, as Mr. Stekloff said, it all
9 kind of goes through the animal testing requirements
10 leading up to the EPA's requirement that they
11 re-redo the mouse study that hasn't been re-redone.

12 THE COURT: Okay. So we're doing that
13 part of it. But as far as what Monsanto did or did
14 not do historically I don't think comes from an
15 expert.

16 MR. TRAMMELL: Well, so he says what he
17 knows from firsthand knowledge about the development
18 of glyphosate, from glyphosate into Roundup. This
19 is all part of their regulatory submission to the
20 EPA. He talks about the studies that were done and
21 the regulatory history around those safety studies.

22 He doesn't -- it doesn't -- so it's not a
23 history of glyphosate opinion. He talks about the
24 origins of the chemical, where it came from, and
25 when it was discovered that it had herbicidal
26 properties, and then when it was submitted for --
27 you know, once the data were developed to submit the
28 application to the EPA and what the EPA did with

1 that information.

2 And then postapproval, what the
3 interactions were between EPA and Monsanto about
4 those studies.

5 THE COURT: Okay. Well, we'll maybe have
6 him give a synopsis of that.

7 But, again, I think 90 percent of what I
8 just heard was a factual event that is either
9 hearsay or he doesn't have the percipient knowledge.

10 MR. TRAMMELL: Sure.

11 THE COURT: Okay. So I think that covers
12 Benbrook.

13 When -- if we pick up -- well, where in
14 your case will he testify?

15 MR. TRAMMELL: So what we'd like to
16 happen is we'd like to play Martens and Heydens and
17 then call Dr. Benbrook. So he actually gets here
18 this afternoon. So I think the Martens' cut is two
19 hours and the Heydens' is maybe two and a half.

20 So we could potentially put him on
21 tomorrow afternoon and do a 402 at lunch if you
22 wanted to or any other time.

23 THE COURT: I just don't -- I don't see
24 how we have Debra go the whole day, including lunch.

25 MR. TRAMMELL: Sure. Well --

26 THE COURT: Can you fill the afternoon
27 with another witness?

28 /////

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1 MR. TRAMMELL: I think so.

2 THE COURT: And we have the 402 at the
3 end of the day?

4 MR. TRAMMELL: I think so. I don't know
5 how we're doing on getting your Honor the deposition
6 objections and responses. I don't know if you have
7 them.

8 THE COURT: I don't believe so.

9 MR. TRAMMELL: Okay. So obviously we've
10 got to get those to you so you can rule on them
11 before we can play anything.

12 MS. EPHRON: Your Honor, we are working
13 on those. We will have them to you this evening.
14 We just received the objections yesterday.

15 MR. IMBROSCIO: I can give a history of
16 where exactly we are, if you'd like, your Honor.

17 THE COURT: Sure.

18 MR. IMBROSCIO: Okay. So late last week
19 we got the plaintiffs' pared-down designations. We
20 got to them yesterday, our objections and our
21 responses.

22 I've got the charts that we sent to the
23 plaintiffs that have the objections and designations
24 that I think are ready, unless we haven't met and
25 conferred on what the objections are, but I think
26 for the first two they're going to be ready for your
27 Honor's review after the argument about any
28 particular designations.

1 THE COURT: Are there, one, common
2 issues? In other words, if I tell you what Number 1
3 is, here's how I'm going to rule, is that going to
4 resolve 30 others?

5 MR. IMBROSCIO: Certainly not as much for
6 the first couple depositions. I think the Martens
7 deposition is largely about the Perry story, which,
8 you know, will come in. There is some hearsay that
9 is wound in there, but I don't think there is a
10 universal sort of ruling that would substantially
11 help in the first couple.

12 THE COURT: So how many, right now,
13 objections are there in Perry?

14 MR. IMBROSCIO: For Martens?

15 THE COURT: For Martens, I'm sorry. The
16 Perry story and Martens.

17 MR. IMBROSCIO: I mean, there are a fair
18 number. But let me pull up my chart. I'd say
19 probably 25 or 30, but almost all of them are
20 hearsay issues from documents that are --

21 THE COURT: Come in.

22 COURT ATTENDANT: They've just asked for
23 a ten-minute break, So I just let them out.

24 THE COURT: Thank you very much, Maria.
25 Go ahead.

26 MR. IMBROSCIO: I have the chart in front
27 of me. I haven't counted them all. But basically
28 hearsay and some sort of argumentative, speculation,

1 sort of one-off issues. The Court dealt with some
2 of them already, not for things that got played, but
3 probably not a lot of work on the Court's part, I
4 would think, other than reading it and making a
5 decision.

6 To be fair, the plaintiffs' objections,
7 if any, to our designations are not included in this
8 chart yet. And that's what Ms. Ephron was
9 discussing.

10 MR. TRAMMELL: I think we're going to
11 have responses to their objections, and we'll have
12 our own objections, if there are any.

13 THE COURT: Okay. Okay. I was planning
14 to go with three or four hearings tomorrow morning
15 between 8:30 and 9:30, one of which I have to keep.

16 But what I think I will do is I will --
17 and this is all on the hypothetical that we know
18 today that we're going to start Phase 2 tomorrow.
19 If the jury is still deliberating, we can obviously
20 do it all here in chambers.

21 So if we have to do it tomorrow morning,
22 I'll keep it top case on calendar, I'll move the
23 others, and I can give you from 8:45 to 9:30. And
24 I'll tell the jury to come back at 9:30, if that's
25 where we're at.

26 Obviously, the more you can give me
27 tonight, and the more we can cover tomorrow morning,
28 the better. And then, like I said, even if we have

1 to end, quote/unquote, early in the afternoon than
2 we normally do, we'll do that, and have a 402 on
3 Dr. Benbrook. Okay? What else can we talk about
4 now?

5 MS. EPHRON: Your Honor, we have several
6 outstanding motions in limine, several of which were
7 tied to Dr. Benbrook, and a couple which this leads
8 to.

9 THE COURT: Since they're on a break, let
10 me go get my chart. I'll be right back.

11 Okay. Which is the first you want to
12 discuss?

13 MS. EPHRON: It would be Defendants'
14 Motion in Limine Number 5 to exclude evidence,
15 argument, or testimony regarding adverse event
16 reports.

17 THE COURT: Okay. I debated whether to
18 take the binders back with me, and I should have.

19 Okay. So what specifically would be
20 presented?

21 MS. EPHRON: So, your Honor, we would
22 introduce the adverse events reports for the purpose
23 of showing notice. So that's what would be
24 presented, and that's how it would be presented.

25 THE COURT: Showing what?

26 MS. EPHRON: Notice.

27 THE COURT: Of what?

28 MS. EPHRON: Through its website Monsanto

1 admits that its employees are notified annually
2 about its obligations to report any potentially
3 adverse effects of its products, and Monsanto was
4 receiving notice of adverse events. And it's
5 actually where this particular motion in limine ties
6 in with the other motion in limine regarding Roundup
7 notification.

8 So Monsanto knew it had an obligation to
9 report these events but it failed to do so. And
10 this goes directly to Monsanto's notice and also to
11 the industry standard of care, which tied into, of
12 course, plaintiffs' claims of negligence and failure
13 to warn.

14 THE COURT: Okay. But what specifically
15 will be in evidence?

16 MS. EPHRON: The actual adverse event
17 reports.

18 THE COURT: How many?

19 MS. EPHRON: That is up to the discretion
20 of your Honor under 352.

21 THE COURT: How many do you want to
22 present?

23 MS. EPHRON: That I will leave to
24 Mr. Trammell.

25 MR. TRAMMELL: I honestly don't know,
26 your Honor. I'd need to find out and get back to
27 you. I'm not even entirely sure what she's talking
28 about, so let me talk to her.

1 THE COURT: Well, my inclination is to
2 grant the motion, especially if they've got a report
3 that the spray got stuck and they couldn't spray, to
4 "my child has a birth defect, and I think it came
5 from Roundup."

6 So, okay. So get the answer as to what
7 you want to present, and then we'll talk more about
8 it.

9 MR. TRAMMELL: Sure.

10 THE COURT: Okay. Next?

11 MS. EPHRON: That brings us to
12 Defendant's Motion in Limine Number 6, evidence
13 argument for testimony regarding Material Safety
14 Data Sheets.

15 THE COURT: Okay. Again, how many, what
16 years, what does it say?

17 MS. EPHRON: So the Material Safety Data
18 Sheets talk about the actual ingredients that are
19 public and in the Roundup product itself.

20 And regarding how many, I again leave
21 that to the discretion of Mr. Trammell.

22 MR. TRAMMELL: So several of them, this
23 would be post-IARC, they put information about --
24 and, again, I'd have to go back and look at them,
25 but I think post-IARC they put information about the
26 IARC classification and the Material Safety Data
27 Sheet, which is information that is conveyed --
28 again, I'd have to go back and look at exactly who

1 gets this information, but it's a Monsanto document
2 referencing the IARC classification for glyphosate.

3 So it would only be, you know, it's been
4 six years since IARC, so it would be fewer than
5 that.

6 THE COURT: Okay. And all it's saying is
7 IARC's conclusion?

8 MR. TRAMMELL: Yes.

9 THE COURT: To show what?

10 MR. TRAMMELL: Well, to show --

11 MS. EPHRON: Your Honor, this goes --

12 MR. TRAMMELL: Go ahead.

13 MS. EPHRON: This goes to the issue of
14 Monsanto's notice and knowledge of the adverse risk
15 associated with Roundup and the critical safety
16 precautions, and it goes directly to Monsanto's
17 failure to meet those standards by failing to
18 actually warn on the product label.

19 So as Mr. Trammell mentions, Monsanto was
20 required by OSHA to put IARC's finding of probable
21 carcinogens on its Roundup MSDS, which Monsanto did.

22 Despite that, Monsanto failed to put a
23 similar warning on the actual Roundup product label.
24 As a result of that, plaintiff wasn't informed about
25 the risk of cancer.

26 THE COURT: Well, are you taking a
27 position that Monsanto was ignorant of IARC?

28 MR. STEKLOFF: No.

1 THE COURT: So I'm not quite sure. If
2 they're being told to put it on the MSDS, they did
3 put it on. They're not saying they were ignorant of
4 it.

5 MS. EPHRON: That's exactly --

6 THE COURT: You have that evidence.

7 MS. EPHRON: Yes, your Honor, that's
8 exactly the point. It goes directly to Monsanto's
9 notice. And despite being aware of the
10 classification, despite putting it on the MSDS, they
11 did not put it on the Roundup label, and as a
12 result, Destiny Clark did not see that warning.

13 THE COURT: Okay. Argument?

14 MR. STEKLOFF: I think the problem, your
15 Honor, is that we're talking about two different
16 regulatory regimes. So OSHA, Occupational Safety --
17 whatever it stands for, has different regulatory
18 requirements and different legal requirements about
19 what is required to go into the MSDS. And so in
20 compliance with the OSHA requirements, there is a
21 statement about IARC's conclusion.

22 I think here we're talking -- in the
23 tables that Ms. Clark would have seen, those fall
24 under FIFRA, and they fall under the EPA 's regime.

25 So they certainly are entitled to argue
26 that there should have been a cancer warning on the
27 EPA-approved Roundup bottles that Ms. Clark and her
28 family used. It's a different question under OSHA

1 and the Material Safety Data Sheet.

2 THE COURT: Again, you want to go down
3 the road of saying OSHA required this?

4 MS. EPHRON: Well, your Honor, as part of
5 the overall context, you know, Monsanto was required
6 to put this warning on the MSDS. The fact that
7 they, obviously, knew about the carcinogenicity and
8 the fact that they put it on the MSDS but they did
9 not put it on the product labeling is the issue.

10 Because they didn't put it on the product
11 labeling, Destiny Clark did not read the warning,
12 and she used the product.

13 THE COURT: Okay. But I could see that
14 if they made a conscious decision on their own
15 without any instruction by another entity to give a
16 warning here and not there. But if they're told
17 they have to put the warning in the MSDS, under 352
18 we're going to have to spend a bunch of time trying
19 to explain to the jury the different roles the
20 entities have.

21 MS. EPHRON: Understood, your Honor.

22 THE COURT: So if -- because what are you
23 going to do? Just have an MSDS be admitted and then
24 make that argument during closing?

25 MS. EPHRON: Well, your Honor, the
26 original plan was for Dr. Benbrook to discuss how
27 Monsanto did not meet regulatory standards by virtue
28 of the fact that they did not add that warning onto

1 the Roundup label despite the fact that it's found
2 elsewhere.

3 So the materials that are directly
4 accessible to the consumer, in other words product
5 labeling, did not have that warning, whereas the
6 MSDS did, which, generally speaking --

7 THE COURT: Well, we'll make some final
8 decisions on Benbrook.

9 Right now, the Motion in Limine Number 6
10 is granted, and you'll just have to bring to me how
11 it would come in otherwise.

12 Next?

13 MS. EPHRON: The next motion in limine
14 would be Defendants' Motion in Limine Number 23,
15 which is reference to a magic tumor.

16 THE COURT: If it comes in, it comes in
17 through Benbrook, and we were talking about that?

18 MR. TRAMMELL: Yes. Well, yeah. Yes.
19 So Benbrook will talk about, as I understand your
20 Honor's ruling, Benbrook will talk about the
21 regulatory implications of the succeeding mouse
22 studies, and I will question Mr. -- Dr. --
23 Mr. Reeves?

24 MR. STEKLOFF: I think Mr. Reeves.

25 MR. TRAMMELL: I'll question Mr. Reeves
26 about whatever aspects of the factual story your
27 Honor thinks are out of bounds with Dr. Benbrook.

28 But I'm not going to say "magic tumor."

1 So to the extent this is a semantics question --

2 THE COURT: Well, I think the key --
3 sorry to interrupt.

4 MR. TRAMMELL: Sure.

5 THE COURT: The key is not what you say,
6 it's what the witness says. So let's make the sure
7 witness is told.

8 MR. TRAMMELL: I'm happy to tell him not
9 to say "magic tumor."

10 THE COURT: Good. Okay.

11 Next.

12 MS. EPHRON: Next, your Honor, is
13 Defendants' Motion in Limine Number 29, to exclude
14 evidence, argument, or references to Bayer's
15 decision to discontinue glyphosate-based Roundup
16 sales.

17 To be clear, circle back to defendants'
18 Motion in Limine Number 19 regarding the health risk
19 of GMOs, that was really a Phase 1 matter. Although
20 I believe Mr. Trammell does anticipate that
21 Dr. Benbrook might testify about this.

22 So we need further guidance from opposing
23 counsel as to what they are seeking to exclude on
24 this subject matter in a Phase 2 situation.

25 MR. STEKLOFF: I mean, I think we need
26 further guidance on what Dr. Benbrook intends to say
27 about this.

28 I think it goes to Mr. Gostin's point,

1 which is they use Dr. Benbrook as this catch-all
2 expert to say everything and anything.

3 The motion, if we're talking about
4 Number 19, is purported health risks of GMOs. I'm
5 not sure, you know, if the question is if the jury
6 says "yes" to the question that they're dealing with
7 now and we go to Phase 2. The question is whether
8 there was a warning failure or design defect failure
9 about Roundup related to cancer, about Roundup, not
10 about GMOs.

11 So I don't think that Dr. Benbrook should
12 be talking about any health effects of GMOs. It's
13 completely irrelevant to what we're dealing with.

14 MR. TRAMMELL: I'm not planning to elicit
15 any opinion from Dr. Benbrook about the health risks
16 of consuming GMO products.

17 THE COURT: Okay. Good. Then that
18 covers 19.

19 Then skipping back to the decision to end
20 certain sales, that motion is granted. You know,
21 we'll see if you think something comes up that it
22 would open the door or change it. But obviously,
23 raise it with me. For now, 29 is granted.

24 Is that it?

25 MS. EPHRON: That is -- oh, we do have
26 Defendants' Motion in Limine Number 24, just the
27 reference of testimony to Kirk Azevedo. We will not
28 be introducing evidence regarding Kirk Azevedo.

1 THE COURT: Okay.

2 MS. EPHRON: Your Honor, if I may, may I
3 just go back to Motion in Limine Number 29, if I
4 could address that?

5 THE COURT: Yes.

6 MS. EPHRON: So Monsanto seems to exclude
7 Bayer's recent press release pulling Roundup from
8 the market on the basis of it being remedial
9 measures. Remedial measures -- or is it a strict
10 liability case in California, pursuant to the
11 California Supreme Court case, Davis versus
12 International Harvester.

13 And Monsanto cites to Bayer's press
14 release and plan to position to pull
15 glyphosate-based products was made exclusively to
16 manage litigation risks and not for safety concerns.
17 But in that same press release, the company also
18 explained it will replace its glyphosate-based
19 products with formulations that rely on alternate
20 accounts.

21 So the announcement of discontinued
22 glyphosate-based products really needs to be
23 considered with Monsanto's conduct, and the jury
24 should be able to make the decision about whether
25 removal from the market was really a result of
26 litigation risk or actually a safety concern.

27 THE COURT: And how do you -- how do you
28 present that evidence?

1 MS. EPHRON: Well, your Honor, this would
2 be evidence that is presented through Dr. Benbrook.

3 THE COURT: How or what?

4 MS. EPHRON: Dr. Benbrook, as the
5 standard of care expert, would opine about
6 Monsanto's conduct in regards to pulling Monsanto --
7 pulling Roundup from the market and the associated
8 conduct that Monsanto had to bear under 352.

9 THE COURT: But in the first part, you're
10 arguing that you should be able to show the real
11 reason why Monsanto -- or Bayer has made this
12 decision.

13 There is no way that Benbrook,
14 Dr. Benbrook can give any opinion on this.

15 MR. TRAMMELL: So I think this will be
16 handled neatly by having Reeves here.

17 THE COURT: Okay.

18 MR. TRAMMELL: So I think if it comes up,
19 it will come up then, and we'll signal to your Honor
20 before we do anything with it.

21 THE COURT: Okay. So the motion is
22 granted, and you said the magic response, okay?

23 MR. STEKLOFF: I think on plaintiffs'
24 motions, your Honor, I think what we will signal,
25 there are, for example -- I may get my dates off --
26 an April 2019 letter where other glyphosate-based
27 herbicide manufacturers submitted a proposed label
28 to the EPA, talking about the IARC classification

1 and essentially adding a warning.

2 And the EPA rejected that and said it
3 would be misbranding to include that warning because
4 the EPA has determined glyphosate is not
5 carcinogenic.

6 So in that context, and it may depend on
7 the examination of Mr. Reeves, so we will not raise
8 this until we raise it with you -- I do think that
9 doors could be opened in which that goes to
10 Monsanto's state of mind. It's not a legal argument
11 about whether or not. You'll instruct the jury on
12 the law, we understand that, but part of our defense
13 would be that the reason Monsanto didn't warn is
14 because it relied on the EPA's determinations and
15 did not think a warning would be appropriate. And
16 that letter specifically in April of 2019 goes to
17 and basically corroborates, what we believe,
18 Monsanto's state of mind.

19 So I think, again, it may depend on some
20 of the ways the examination occurs, but because it
21 relates to Plaintiffs' Motion Number -- really I
22 think 3 and 4, which you deferred that as to
23 Phase 2, I think I wanted to raise that now.

24 THE COURT: Okay. Anything for the
25 record?

26 MR. TRAMMELL: If we could suspend
27 argument on this until I can familiarize myself with
28 them, I'd appreciate it.

1 THE COURT: Okay. That's fine.

2 MR. STEKLOFF: I don't have an update on
3 defendant's motions, but I did want to flag those
4 two motions, your Honor.

5 THE COURT: Sure. My immediate
6 response -- or thought, I should say, is that that
7 letter or email could open the door to what Bayer
8 has decided as to going forward, so.

9 Okay, what else?

10 MR. TRAMMELL: Hopefully nothing.

11 THE COURT: That's fair.

12 MS. EPHRON: Your Honor, what we have
13 left --

14 THE COURT: You better tell her that.

15 MR. TRAMMELL: I tried.

16 MS. EPHRON: What we have left is
17 Plaintiffs' Motion in Limine Number 3 and 4 and 8.
18 That's all we have.

19 THE COURT: Okay. So 3 and 8 we have
20 just made reference to, and 4 I think is in the same
21 category.

22 MR. STEKLOFF: Yeah, 3, 4, and 8. 8 is
23 about more than 800 studies supporting glyphosate,
24 and I think we've dealt with 8 separately in terms
25 of talking about studies that were aimed at
26 carcinogenicity versus other things.

27 I mean, now I think that it might be
28 relevant in Phase 2, to be clear, that Monsanto, to

1 be clear, is also complying with the other testing
2 requirements in order to put Roundup on the market.

3 But we're not going to use the
4 phrase "800 studies" if that's the big issue right
5 now. That's my recollection of the issue there.

6 But I think showing Monsanto's compliance
7 of what it has to do every time a Roundup product is
8 going to be put on the market, a specific Roundup
9 product. So the specific Roundup Ready-to-Use was
10 one formulation versus another formulation, they
11 have to do, among other studies, something called a
12 six-pack of studies. Some of it involves eye
13 irritation and other things.

14 But, again, I think this is something
15 Mr. Reeves will likely talk about. So we won't
16 raise that outside of the context of that. We're
17 sort of fine to wait to see how the examination
18 goes.

19 THE COURT: And we're on the same page.
20 You're going to examine Mr. Reeves first, right?

21 MR. TRAMMELL: Right.

22 THE COURT: And that's agreeable.

23 MR. STEKLOFF: Yes, your Honor.

24 MR. TRAMMELL: On the 30(b)(6) topics he
25 was deposed on.

26 MR. STEKLOFF: We're agreeable to that,
27 their PMK topics. So as long as they're the same
28 topics, we're prepared to talk about those topics.

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1 THE COURT: You want me to ask her or
2 you?

3 MR. TRAMMELL: No, we have nothing
4 further.

5 THE COURT: Okay. I told them about 4:30
6 would be the latest, so we'll see. If they're
7 coming back from a break, they'll probably go to
8 4:30.

9 MR. TRAMMELL: What time do you want us
10 back in the morning?

11 THE COURT: Why don't we say 8:30; that
12 way, if the Talc case goes in five minutes, I can
13 start working with you right away.

14
15 (OFF THE RECORD; RECESS ENSUED.)

16 (PROCEEDINGS CONCLUDED FOR THE
17 DAY.)

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
DEPARTMENT SSC 1 HON. DANIEL J. BUCKLEY, JUDGE

DESTINY CLARK, ON BEHALF OF)
HER MINOR CHILD, EZRA CLARK,)
)
 PLAINTIFFS,)
)
 VS.) CASE NO.
) 20STCV46616
MONSANTO COMPANY, ET AL.,)
)
 DEFENDANTS.)
_____)

I, DEBRA BOLLMAN FARFAN, Certified
Shorthand Reporter, License No. 11648, in the State
of California, hereby certify that the foregoing is
a true and accurate transcript of the proceedings
taken before me on the 4th, October, 2021,
Department SSC 1, as thereon stated.

I declare under penalty of perjury that
the foregoing is true and correct.

Executed at Los Angeles, California, on
October 4th, 2021.



DEBRA BOLLMAN FARFAN, CSR 11648
RMR, RDR, CRR, CRC
OFFICIAL COURT REPORTER PRO TEMPORE

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<p>1918:27, 1934:5, 1986:11 amount 1843:18, 1864:3, 1864:9, 1865:27, 1893:6 analyze 1915:18 analyzed 1897:14 angeles 1831:2, 1835:3, 1881:21, 1988:2, 1988:26 angles 1841:16, 1841:21 animal 1869:19, 1870:27, 1917:3, 1917:11, 1917:16, 1920:20, 1920:25, 1921:4, 1935:7, 1935:9, 1944:19, 1947:17, 1947:27, 1948:28, 1949:3, 1949:7, 1949:11, 1949:25, 1952:10, 1952:13, 1968:9 animals 1869:22, 1869:24, 1912:14, 1912:16, 1921:8 announcement 1982:21 annually 1974:1 another 1865:15, 1869:12, 1882:20, 1883:2, 1892:14, 1907:17,</p>	<p>1909:14, 1909:23, 1913:12, 1913:28, 1920:9, 1937:18, 1949:11, 1952:13, 1955:6, 1955:7, 1969:27, 1978:15, 1986:10 answer 1838:24, 1850:2, 1850:14, 1850:18, 1856:17, 1856:26, 1865:24, 1888:5, 1888:11, 1889:13, 1889:18, 1889:26, 1890:16, 1894:3, 1898:28, 1900:7, 1900:12, 1900:13, 1900:15, 1910:24, 1911:1, 1915:5, 1916:14, 1917:14, 1925:7, 1925:9, 1931:12, 1931:17, 1931:18, 1931:27, 1951:7, 1951:21, 1951:23, 1954:23, 1975:6 answered 1908:14, 1909:28 answering 1954:18 answers 1891:10 anticipate 1980:20 anticipated 1921:23, 1922:3 antisocial 1939:19</p>	<p>any 1837:24, 1838:26, 1841:8, 1844:11, 1846:17, 1848:4, 1854:18, 1854:23, 1856:17, 1859:5, 1872:1, 1881:22, 1882:26, 1883:9, 1888:7, 1888:8, 1890:24, 1894:17, 1894:19, 1894:26, 1908:6, 1909:3, 1913:18, 1914:16, 1915:9, 1915:18, 1915:26, 1918:4, 1918:8, 1921:10, 1922:8, 1923:6, 1926:12, 1929:10, 1930:16, 1930:18, 1936:11, 1936:14, 1937:7, 1937:25, 1940:22, 1941:6, 1942:27, 1943:21, 1943:24, 1946:20, 1946:27, 1951:28, 1953:18, 1957:7, 1958:20, 1959:1, 1959:11, 1960:10, 1960:12, 1961:5, 1962:11, 1962:12, 1964:19, 1966:2, 1967:1, 1969:22, 1970:27, 1972:7, 1972:12, 1974:2, 1978:15, 1981:12,</p>	<p>1981:15, 1983:14 anybody 1851:9, 1858:11, 1879:5, 1890:12, 1930:20, 1932:19, 1950:24 anyone 1883:22, 1890:11, 1890:14, 1918:1, 1930:24, 1931:1, 1936:12, 1938:28 anything 1843:27, 1844:21, 1846:26, 1847:6, 1853:25, 1855:28, 1868:20, 1883:17, 1887:4, 1906:28, 1924:2, 1924:17, 1932:20, 1941:5, 1941:7, 1944:9, 1947:12, 1950:24, 1952:9, 1954:6, 1970:11, 1981:2, 1983:20, 1984:24 anywhere 1882:2, 1890:22 apart 1907:14, 1954:13 apartment 1859:4 apologize 1951:22, 1960:27 appearances 1832:1, 1832:32, 1833:2, 1835:5 appears 1965:19 application 1968:28</p>
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<p>applications 1921:24, 1922:1 applicator 1864:14 applicators 1864:19, 1915:21, 1918:28 applies 1882:17 apply 1887:28 applying 1917:27 appreciate 1849:23, 1984:28 approach 1874:20, 1942:2, 1963:25 appropriate 1943:15, 1961:22, 1984:15 approval 1944:20, 1949:8 approved 1945:15, 1952:11, 1959:10, 1961:20 approves 1944:26 approximately 1948:1, 1949:28, 1952:6 april 1983:26, 1984:16 area 1843:11, 1843:19, 1866:27, 1897:2, 1897:3, 1928:24, 1929:13, 1929:20, 1939:15 areas 1843:13, 1843:22, 1897:2, 1928:22, 1940:16 aren't 1839:13,</p>	<p>1858:3, 1870:19, 1888:26, 1934:11 arguably 1953:23 argue 1842:19, 1843:8, 1883:20, 1948:4, 1949:27, 1951:24, 1977:25 argued 1950:2, 1961:14 arguing 1874:27, 1875:4, 1875:5, 1983:10 argument 1834:6, 1834:7, 1838:8, 1839:11, 1842:27, 1843:10, 1843:12, 1843:24, 1843:26, 1849:24, 1855:1, 1861:6, 1875:5, 1875:6, 1875:25, 1876:24, 1884:12, 1930:3, 1932:15, 1941:18, 1942:27, 1943:13, 1947:7, 1952:22, 1958:6, 1958:20, 1959:11, 1962:12, 1963:25, 1970:27, 1973:15, 1975:13, 1977:13, 1978:24, 1980:14, 1984:10, 1984:27 argumentative 1971:28 arguments 1849:1, 1889:20</p>	<p>around 1843:21, 1848:4, 1848:6, 1851:9, 1853:4, 1860:28, 1861:12, 1862:14, 1862:18, 1866:14, 1890:11, 1890:13, 1890:22, 1893:16, 1895:27, 1897:3, 1919:11, 1920:14, 1928:23, 1929:12, 1929:21, 1930:7, 1968:21 article 1913:8, 1958:18, 1958:22, 1958:25 asked 1837:20, 1848:22, 1854:4, 1855:22, 1856:23, 1872:8, 1872:27, 1878:25, 1879:2, 1879:15, 1882:25, 1883:9, 1883:15, 1889:13, 1890:17, 1902:6, 1904:9, 1908:3, 1909:17, 1913:17, 1917:7, 1924:3, 1925:5, 1930:24, 1931:3, 1931:17, 1936:21, 1940:8, 1971:22 asking 1840:15, 1842:7, 1850:18, 1855:18, 1886:2,</p>	<p>1895:5, 1927:5, 1935:19 asleep 1851:11 aspect 1950:8 aspects 1866:6, 1979:26 assess 1898:26, 1911:27 assessed 1922:5 assessment 1923:5 assistant 1950:25, 1953:26 assisted 1960:10, 1960:12 assists 1966:4 associated 1868:11, 1915:11, 1976:15, 1983:7 association 1918:12, 1918:16, 1918:23, 1920:27 assume 1953:22 assumes 1905:21 astronaut 1853:21 attack 1922:28 attempt 1857:28 attempted 1864:2 attempting 1858:4 attendant 1935:28, 1938:23, 1939:5,</p>
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<p>1942:5, 1954:10, 1955:25, 1956:7, 1956:10, 1956:25, 1957:5, 1957:23, 1959:14, 1959:24, 1959:28, 1961:17, 1962:14, 1963:13, 1967:20, 1967:27, 1969:12, 1969:17, 1973:3, 1973:7, 1978:26, 1979:8, 1979:17, 1979:19, 1979:20, 1979:27, 1980:21, 1980:26, 1981:1, 1981:11, 1981:15, 1983:2, 1983:4, 1983:13, 1983:14 benbrook's 1942:4, 1957:6, 1966:18 benzene 1881:12 best 1844:3, 1918:6, 1919:4, 1919:14, 1926:27, 1932:6, 1938:16, 1941:26, 1942:16, 1958:24, 1966:5 better 1836:17, 1933:17, 1957:27, 1962:7, 1972:28, 1985:14 between 1852:15, 1883:10, 1894:14,</p>	<p>1894:23, 1894:28, 1895:14, 1897:4, 1920:27, 1930:19, 1952:6, 1956:18, 1965:14, 1969:3, 1972:15 beverly 1832:10 bias 1887:25 big 1853:21, 1854:7, 1859:26, 1859:27, 1861:5, 1861:7, 1861:8, 1879:7, 1881:16, 1893:12, 1895:22, 1895:23, 1895:26, 1986:4 bigger 1839:26, 1860:23 biggest 1919:14 binder 1943:5 binders 1973:18 bio-test 1942:23 birth 1975:4 bit 1837:13, 1850:26, 1885:22, 1888:17, 1896:10, 1938:19, 1954:24 black 1848:6 blair 1869:10, 1878:22 block 1935:2</p>	<p>blood 1866:9 bloodstream 1866:11 blue 1870:23 blurriness 1848:7 board 1909:5, 1909:6, 1937:22 boards 1925:22 bodies 1877:18, 1920:14 body 1866:10, 1867:9, 1867:10, 1873:25, 1874:3, 1877:8, 1910:22, 1923:22 body's 1873:16, 1877:20, 1911:8 bollman 1831:35, 1835:6, 1988:17, 1988:30 born 1850:21, 1850:23, 1850:24, 1851:10, 1950:2 both 1842:4, 1872:6, 1874:12, 1876:9, 1876:14, 1880:3, 1903:14, 1907:23, 1907:26, 1925:23, 1931:22, 1940:15, 1940:16, 1940:25, 1945:6, 1945:7, 1945:10, 1953:5, 1962:3,</p>	<p>1962:19 bottle 1841:2, 1841:5, 1860:3, 1860:17, 1861:3, 1864:9, 1895:23, 1895:26, 1895:27, 1924:9 bottles 1860:23, 1860:25, 1893:9, 1895:16, 1895:18, 1895:21, 1895:22, 1895:23, 1896:3, 1896:5, 1896:7, 1896:19, 1898:1, 1927:26, 1927:27, 1928:4, 1928:7, 1932:20, 1932:21, 1932:28, 1977:27 bottom 1873:23, 1899:15, 1916:5, 1916:24, 1917:4 bought 1860:3, 1860:23, 1892:23, 1892:26, 1893:4, 1893:8, 1893:11, 1894:14, 1895:18, 1896:19, 1927:26, 1928:7 boulevard 1832:9 bouncy 1851:13, 1851:14, 1851:17, 1929:8, 1929:9, 1929:11, 1929:13, 1929:14, 1929:16 bound 1936:8</p>
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<p>bounds 1957:20, 1958:22, 1979:27 box 1870:22, 1900:6 boxes 1845:18 boy 1850:28, 1853:7, 1853:19, 1865:7, 1935:13 brain 1856:7, 1856:9, 1856:12, 1856:18, 1857:27, 1859:21, 1906:22 break 1844:11, 1851:26, 1871:27, 1872:4, 1872:6, 1872:14, 1874:17, 1875:2, 1876:27, 1877:7, 1877:12, 1877:22, 1886:6, 1910:6, 1910:18, 1937:24, 1938:2, 1938:3, 1938:13, 1971:23, 1973:9, 1987:7 breaking 1866:25 breaks 1872:10, 1872:21, 1872:24, 1872:26, 1877:12, 1884:14, 1910:4, 1910:12, 1910:14, 1938:6 brian 1833:8 brian@wilkinsons- tekloff 1833:14 brick 1866:25</p>	<p>brief 1846:3, 1847:18, 1886:10, 1932:10 briefing 1967:5 briefly 1920:13, 1923:28, 1929:27 bring 1842:9, 1979:10 brings 1879:5, 1975:11 broad 1842:8, 1967:5 broke 1965:17 brother 1859:27 brother) 1891:20 brought 1896:18 buckley 1831:3, 1835:4, 1988:3 buggy 1861:1 building 1935:2 bunch 1943:14, 1943:17, 1978:18 burden 1885:9, 1893:8, 1896:8, 1896:9, 1896:24, 1898:14, 1899:11, 1902:23, 1905:28, 1906:24, 1907:18, 1927:12, 1929:6, 1930:2, 1932:4, 1936:1 burkitt's 1850:5, 1854:9,</p>	<p>1854:16, 1854:19, 1854:22, 1854:24, 1872:4, 1872:5, 1872:10, 1872:13, 1872:25, 1873:5, 1873:6, 1873:15, 1874:14, 1874:15, 1876:25, 1882:10, 1882:11, 1882:12, 1882:20, 1882:24, 1882:27, 1883:4, 1884:18, 1885:3, 1885:8, 1885:28, 1889:15, 1889:28, 1890:3, 1906:2, 1910:2, 1910:5, 1910:28, 1911:6, 1911:7, 1911:15, 1912:13, 1912:25, 1915:10, 1931:10, 1931:28, 1932:27, 1935:6, 1935:16, 1935:17 burling 1833:22 burlington 1957:17 button 1908:27 buy 1860:17, 1860:24, 1861:2, 1882:2, 1895:25, 1896:2, 1928:4 buying 1860:10, 1861:1, 1894:18</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>ca 1832:10, 1835:3</p>	<p>cab 1878:14, 1878:27 caballero 1941:19, 1942:13, 1948:9, 1960:3, 1963:19 caballero's 1944:3 calculated 1899:14 calendar 1972:22 cali 1833:9 california 1831:1, 1881:17, 1881:18, 1882:7, 1884:19, 1957:15, 1957:25, 1959:20, 1965:12, 1982:10, 1982:11, 1988:1, 1988:19, 1988:26 call 1865:5, 1865:9, 1888:13, 1924:14, 1937:24, 1948:2, 1955:4, 1969:17 call-in 1955:4 called 1882:12, 1926:6, 1930:26, 1986:11 calling 1867:27, 1924:22, 1964:21 calls 1945:28 calm 1929:11 came 1841:12,</p>
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<p>1864:3, 1868:5, 1869:9, 1901:1, 1901:3, 1907:3, 1911:4, 1912:24, 1947:11, 1968:24, 1975:4 can't 1839:14, 1854:16, 1857:21, 1867:21, 1869:20, 1882:2, 1882:18, 1889:1, 1906:27, 1914:15, 1926:25, 1930:5, 1967:25 canada 1865:1, 1865:8, 1884:21, 1922:13, 1922:19, 1923:14, 1924:3 canadian 1838:2, 1838:5, 1838:12, 1838:13, 1838:15, 1838:22, 1839:2, 1839:21, 1840:1, 1864:27, 1924:1, 1930:8 cancers 1935:2 candidly 1838:6 cannot 1887:4, 1909:9, 1939:14, 1952:12, 1958:11, 1966:13, 1967:10 capacity 1873:26, 1944:2 car 1904:8 carcinogen 1869:16,</p>	<p>1869:21, 1871:12, 1884:10, 1885:6, 1946:3, 1956:14 carcinogenic 1920:17, 1920:24, 1920:28, 1921:9, 1922:12, 1922:15, 1923:11, 1923:13, 1984:5 carcinogenicity 1920:25, 1922:18, 1947:28, 1949:7, 1949:11, 1952:10, 1952:13, 1978:7, 1985:26 carcinogens 1976:21 care 1862:6, 1862:7, 1862:8, 1862:15, 1862:25, 1883:13, 1913:12, 1914:9, 1921:13, 1924:27, 1926:28, 1942:6, 1957:7, 1962:12, 1962:16, 1963:10, 1963:14, 1974:11, 1983:5 carefully 1910:9, 1911:25 caretaker 1862:4 carry 1929:14, 1929:16 carrying 1851:11 case 1831:11, 1835:1, 1835:2,</p>	<p>1837:17, 1838:26, 1840:2, 1840:28, 1844:21, 1850:13, 1850:18, 1855:17, 1855:26, 1855:28, 1856:3, 1858:26, 1869:12, 1875:7, 1875:10, 1884:1, 1885:9, 1886:6, 1887:21, 1888:1, 1896:16, 1898:20, 1906:4, 1908:2, 1908:11, 1909:14, 1909:26, 1909:27, 1910:18, 1911:28, 1913:26, 1914:25, 1915:16, 1918:4, 1919:14, 1925:15, 1925:17, 1926:25, 1932:7, 1935:4, 1936:11, 1936:17, 1936:28, 1939:2, 1939:8, 1941:19, 1943:19, 1946:20, 1954:16, 1957:22, 1959:14, 1959:19, 1965:24, 1969:14, 1972:22, 1982:10, 1982:11, 1987:12, 1988:10 cases 1872:10, 1908:19, 1909:3,</p>	<p>1926:1, 1937:16, 1938:1 catch 1854:12, 1909:13 catch-all 1981:1 catches 1881:13 categorization 1955:14 category 1838:3, 1985:21 caught 1874:26 causation 1846:25 cause 1848:24, 1856:12, 1867:4, 1867:23, 1868:1, 1869:2, 1872:1, 1872:4, 1873:7, 1873:25, 1881:19, 1882:18, 1882:20, 1883:4, 1884:21, 1890:3, 1906:1, 1910:1, 1916:7, 1916:8, 1916:9, 1922:25, 1923:2, 1926:18, 1931:27, 1933:20, 1933:27, 1934:20, 1934:25 caused 1869:24, 1872:13, 1874:15, 1875:9, 1875:17, 1876:25, 1889:28, 1910:17, 1910:21, 1911:7, 1911:13, 1912:26, 1913:2, 1913:3, 1913:7,</p>
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<p>1913:18, 1914:10, 1914:15, 1926:2, 1926:15, 1926:16, 1930:12, 1930:27, 1933:8, 1933:12 causer 1955:10 causes 1868:17, 1869:8, 1870:14, 1871:14, 1871:21, 1873:14, 1878:24, 1881:6, 1881:10, 1882:10, 1885:7, 1911:10, 1913:6, 1914:18, 1914:23, 1916:13, 1917:12, 1923:3, 1924:4, 1924:18, 1926:20, 1934:4, 1934:8, 1935:6, 1935:16 causing 1850:4, 1866:12, 1871:11, 1873:18, 1877:6, 1889:15, 1911:14, 1919:4, 1931:9, 1934:18, 1935:6 caution 1924:11, 1924:21 ccope-kasten@wil- kinsonstekloff 1833:15 cell 1867:15, 1884:13 cells 1867:3, 1871:8,</p>	<p>1872:19, 1873:11, 1873:13, 1877:6, 1912:23, 1917:1 cereal 1860:11 cerebral 1856:9 certain 1838:7, 1838:8, 1950:16, 1961:27, 1981:20 certainly 1898:24, 1942:3, 1942:14, 1943:24, 1945:25, 1948:8, 1956:8, 1971:5, 1977:25 certification 1909:5, 1960:22 certifications 1909:7 certified 1945:9, 1988:17 certify 1988:19 cervical 1856:6, 1883:5 cetera 1844:22, 1942:18 chair 1869:11, 1869:15 chairman 1878:22 challenge 1856:2, 1856:28, 1898:7 challenging 1906:11 chambers 1937:15, 1938:20, 1939:27, 1941:12, 1972:20 chance 1854:18,</p>	<p>1854:26 change 1901:3, 1926:26, 1926:27, 1981:22 changed 1837:4, 1843:16, 1861:18, 1868:19 changes 1835:18, 1935:28 charge 1938:25, 1945:24, 1946:11, 1950:23, 1951:1 charged 1953:18 charles 1891:19, 1892:20, 1892:24, 1941:16 chart 1874:2, 1879:23, 1880:2, 1895:4, 1898:19, 1899:12, 1899:13, 1905:19, 1917:7, 1919:16, 1920:2, 1947:18, 1971:18, 1971:26, 1972:8, 1973:10 charts 1970:22 chase 1916:5 check 1860:12, 1886:3 chemical 1868:11, 1871:11, 1881:19, 1884:19, 1916:7, 1935:18, 1968:24 chemicals 1867:22,</p>	<p>1881:14 chemotherapy 1861:25, 1903:11, 1903:23, 1906:18, 1907:10, 1927:21 chhabria 1966:22 chief 1945:24, 1950:12 child 1831:6, 1832:4, 1887:16, 1913:24, 1915:20, 1929:11, 1975:4, 1988:6 child's 1891:15, 1913:3, 1930:13, 1930:27 childhood 1914:4, 1914:7, 1915:15, 1915:19 children 1892:10, 1910:20, 1910:26, 1911:6, 1911:17, 1915:3, 1915:4, 1915:27, 1919:7, 1919:11, 1924:11, 1924:20 children's 1926:7, 1926:14 choice 1849:20 chosen 1887:28 chronological 1834:3 chuck 1859:28, 1860:22, 1860:26 cigarette 1920:10 circle 1980:17</p>
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<p>1958:2, 1960:20, 1965:8, 1965:27, 1967:27, 1968:15, 1981:2, 1983:5 expertise 1961:10, 1962:6 experts 1868:7, 1872:6, 1876:9, 1882:17, 1883:15, 1908:10, 1910:3, 1911:26, 1959:16, 1959:21 explain 1911:9, 1930:25, 1936:27, 1955:12, 1978:19 explained 1893:11, 1897:17, 1897:27, 1912:21, 1917:15, 1918:13, 1923:4, 1982:18 explaining 1889:21 explanation 1906:13, 1906:14, 1906:23, 1907:14, 1907:18 explanations 1889:5, 1889:9, 1929:1 expose 1884:13 exposed 1842:1, 1855:20, 1857:7, 1864:8, 1864:10, 1864:13, 1864:23, 1865:7, 1865:26, 1873:20, 1873:24, 1874:6,</p>	<p>1875:7, 1877:13, 1884:1, 1888:20, 1890:1, 1890:8, 1898:10, 1898:15, 1898:21, 1902:14, 1914:20, 1917:17, 1917:28, 1918:20, 1921:28, 1923:6, 1933:11, 1935:13, 1935:17 exposure 1850:3, 1850:20, 1855:19, 1863:1, 1863:3, 1863:9, 1863:11, 1863:12, 1864:3, 1864:7, 1864:14, 1864:21, 1864:25, 1865:17, 1865:18, 1865:20, 1865:24, 1866:2, 1868:17, 1871:8, 1872:28, 1873:6, 1875:1, 1875:9, 1879:3, 1880:13, 1884:9, 1885:6, 1885:26, 1891:16, 1896:6, 1898:16, 1898:26, 1899:10, 1915:11, 1920:27, 1921:11, 1922:3, 1922:6, 1922:7, 1931:8, 1932:25, 1933:3, 1935:11 exposure" 1875:13 exposures 1921:23</p>	<p>express 1886:7, 1932:8, 1936:17, 1939:11 expresses 1936:22 extensive 1920:16, 1952:27 extensively 1935:13 extent 1838:9, 1980:1 extreme 1950:26, 1953:28 extremely 1854:10, 1854:14, 1854:25, 1863:19 eye 1848:2, 1939:18, 1986:12 eyes 1924:6, 1924:13, 1924:23 ezra 1831:6, 1837:28, 1839:27, 1841:28, 1849:18, 1850:3, 1850:21, 1850:26, 1851:16, 1851:24, 1852:8, 1852:19, 1852:22, 1852:28, 1853:13, 1853:16, 1853:17, 1853:23, 1853:25, 1855:8, 1855:14, 1855:19, 1855:27, 1856:4, 1858:27, 1859:8, 1859:26,</p>	<p>1860:20, 1861:3, 1862:15, 1863:7, 1864:12, 1865:26, 1872:5, 1882:26, 1883:3, 1883:14, 1884:1, 1885:16, 1887:12, 1888:19, 1889:15, 1890:1, 1890:3, 1890:7, 1890:11, 1890:13, 1890:15, 1890:22, 1891:19, 1891:20, 1891:21, 1894:15, 1894:24, 1894:28, 1898:9, 1898:15, 1898:20, 1899:10, 1902:13, 1905:5, 1906:1, 1908:4, 1908:6, 1909:21, 1909:25, 1910:1, 1911:6, 1911:15, 1911:28, 1912:1, 1912:25, 1914:9, 1914:10, 1914:15, 1914:19, 1929:2, 1929:19, 1929:22, 1930:7, 1931:8, 1931:27, 1934:13, 1988:6 ezra's 1850:20, 1851:20, 1852:1, 1852:11, 1852:12, 1852:15, 1853:9, 1854:22, 1855:20, 1855:25, 1856:14,</p>
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<p>1945:23, 1946:5, 1946:24, 1947:5, 1947:20, 1948:11, 1948:13, 1949:2, 1950:3, 1952:1, 1952:25, 1952:27, 1953:14, 1953:22 fraudulent 1945:1, 1945:13, 1945:28 fraudulently 1945:2 free 1844:23, 1851:15, 1865:11, 1875:16, 1896:14 friday 1841:12 friends 1936:13 front 1853:20, 1924:10, 1963:16, 1966:25, 1971:26 fuero 1896:27 full 1873:25, 1946:19 full-body 1863:12 functioning 1914:6 functions 1910:22 further 1943:13, 1952:2, 1980:22, 1980:26, 1987:4 furthermore 1921:3 future 1956:15</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>gallery 1845:19</p>	<p>game 1875:16, 1885:15, 1896:13 games 1861:17 garage 1841:3, 1924:9, 1928:26 gardener 1843:20, 1892:9, 1895:26, 1897:5, 1897:7, 1928:10, 1928:14 gardeners 1928:22 gauge 1908:13 gave 1837:23, 1935:23, 1941:3 gear 1917:25 general 1956:28 generally 1852:4, 1852:26, 1914:18, 1937:26, 1941:27, 1943:27, 1979:6 generated 1945:2, 1945:13 genetic 1867:4, 1867:8, 1867:11, 1867:15, 1867:19, 1867:21 genetics 1914:4 genotoxic 1871:22, 1921:7, 1922:12, 1922:13, 1922:16, 1922:19, 1923:16, 1924:4 genotoxicity 1912:7,</p>	<p>1912:10, 1916:4, 1916:15, 1920:21, 1920:25, 1921:6 gentlemen 1876:23, 1886:5, 1932:2, 1935:23, 1939:7, 1965:22 getting 1854:24, 1861:25, 1863:9, 1863:11, 1864:18, 1864:21, 1865:15, 1865:22, 1866:3, 1871:2, 1877:16, 1877:17, 1880:24, 1880:26, 1884:4, 1888:20, 1924:6, 1932:3, 1932:26, 1933:24, 1963:25, 1970:5 give 1844:8, 1849:10, 1851:25, 1855:25, 1856:15, 1856:17, 1856:20, 1941:27, 1947:15, 1954:22, 1958:10, 1962:3, 1965:16, 1965:21, 1966:6, 1966:22, 1969:6, 1970:15, 1972:23, 1972:26, 1978:15, 1983:14 given 1837:19, 1888:2, 1911:28, 1937:9, 1939:21,</p>	<p>1955:17 gives 1924:14, 1961:15 giving 1908:2, 1932:8, 1965:5 glad 1880:21 glaxosmithkline 1959:19 gloves 1865:2 glyphosate 1866:19, 1867:28, 1868:14, 1869:23, 1880:11, 1915:2, 1915:4, 1915:5, 1915:6, 1915:14, 1915:18, 1916:16, 1916:24, 1917:12, 1918:10, 1920:18, 1920:20, 1920:24, 1920:27, 1921:7, 1921:11, 1921:26, 1921:28, 1922:6, 1923:11, 1923:12, 1923:16, 1923:25, 1926:12, 1968:4, 1968:18, 1968:23, 1976:2, 1984:4, 1985:23 glyphosate's 1968:6 glyphosate-based 1881:23, 1980:15, 1982:15, 1982:18,</p>
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<p>increased 1878:9, 1879:8, 1879:10, 1879:14, 1879:17, 1879:19, 1879:22, 1915:10 increases 1915:2, 1915:15 indeed 1960:8 independent 1872:22, 1883:13, 1914:1, 1923:10 independently 1884:16, 1918:2 index 1834:1, 1834:3 indicate 1936:22 indicated 1900:8, 1932:4 indictment 1950:20, 1951:6, 1951:7 individual 1892:16 individually 1936:21 individuals 1842:16, 1949:2 induce 1916:25, 1916:28 industrial 1942:23 industry 1957:12, 1962:11, 1962:28, 1963:2, 1963:9, 1974:11 inexperienced 1925:3 infections 1911:19 inference 1948:10</p>	<p>inferences 1959:2 influence 1887:26 information 1840:8, 1843:25, 1848:26, 1855:20, 1856:15, 1856:21, 1856:24, 1862:28, 1864:28, 1868:10, 1869:18, 1879:13, 1885:1, 1934:1, 1943:28, 1949:18, 1954:23, 1957:19, 1957:24, 1961:27, 1964:8, 1965:10, 1965:11, 1965:19, 1965:20, 1969:1, 1975:23, 1975:25, 1975:27, 1976:1 informed 1976:24 ingredient 1869:23, 1870:10, 1880:12 ingredients 1881:26, 1975:18 inherited 1911:22 inhibiting 1875:14, 1903:27 initial 1903:3, 1944:20, 1949:8, 1949:19, 1949:28 initially 1841:21,</p>	<p>1861:21, 1872:13 inmate 1957:22 insinuation 1948:22 instead 1857:12, 1863:26, 1965:5 institute 1869:14, 1918:3, 1918:5, 1934:6 institution 1926:14 instruct 1984:11 instructed 1887:22 instruction 1849:4, 1886:8, 1887:23, 1907:20, 1944:3, 1965:6, 1965:16, 1978:15 instructions 1835:17, 1845:1, 1845:3, 1845:13, 1849:6, 1849:9, 1873:2, 1887:23, 1907:21, 1927:2, 1932:23, 1935:24, 1936:3, 1936:4, 1936:5, 1936:8, 1941:3 instructive 1934:19 insurance 1957:17 intend 1956:11 intends 1980:26 intent 1955:28, 1964:12 interactions 1969:3</p>	<p>intercarga 1957:16 interest 1920:28 interesting 1870:6 international 1867:26, 1982:12 interpretation 1959:1 interrogate 1857:4 interrogated 1857:13 interrogatories 1891:8, 1900:18 interrogators 1857:24, 1906:12 interrogatory 1891:23, 1892:14, 1899:24 interrupt 1967:13, 1980:3 interview 1908:25, 1909:1, 1909:3 interviews 1908:21 introduce 1973:22 introduced 1841:22, 1842:24 introducing 1841:1, 1981:28 invalid 1899:3, 1899:4, 1945:28, 1954:13 invalidate 1949:4 invalidated 1947:26, 1948:1, 1949:6 investigation 1942:22, 1954:11,</p>
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