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*Attorneys for Defendant Monsanto Co.*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN RE: ROUNDUP PRODUCTS  
LIABILITY LITIGATION

MDL No. 2741  
Case No. 3:16-md-02741-VC

*Hardeman v. Monsanto Co., et al.,*  
3:16-cv-0525-VC  
*Stevick v. Monsanto Co., et al.,*  
3:16-cv-2341-VC  
*Gebeyehou v. Monsanto Co., et al.,*  
3:16-cv-5813-VC

**JOINT PRETRIAL CONFERENCE STATEMENT**

1 Pursuant to Rule 16 of the Federal Rules of Civil Procedure, Civil Local Rule 16-10, and  
2 Paragraph 2 of the Standing Order for Civil Trials Before Judge Chhabria, Plaintiffs, Edwin  
3 Hardeman, Elaine Stevick, and Sioum Gebeyehou, and Defendant Monsanto Company  
4 (“Monsanto”) hereby submit this Joint Pretrial Conference Statement for the Pretrial Conference  
5 set for February 13, 2019.

6 **A. Description of Claims And Defenses.**

7 **Plaintiff’s Statement**

8 Plaintiff Edwin Hardeman developed Non-Hodgkin’s Lymphoma (“NHL”) after  
9 exposure to Defendant Monsanto Company’s glyphosate-based herbicide, Roundup® on his 56-  
10 acre property for 24 years, from 1988 through 2012. Mr. Hardeman’s Roundup exposure was  
11 frequent, intense, and sustained over many decades. He also suffered acute exposure due to spills  
12 or other instances when the Roundup® he was spraying came into contact with his skin.

13 The Court has bifurcated the issue of causation for the first phase of the trial. As such,  
14 the issue for the first phase of the trial is whether Mr. Hardeman’s exposure to Roundup® was a  
15 substantial factor in causing his NHL. The second phase will address liability and damages.

16 Mr. Hardeman’s First Amended Complaint [Dkt. 6, filed February 12, 2016] includes a  
17 claim for punitive and/or exemplary damages and the following causes of action: (1) Negligence  
18 (including failure to test); (2) Strict Products Liability – Design Defect; (3) Strict Products  
19 Liability – Failure to Warn; and (4) and Breach of Implied Warranties. The parties have  
20 exchanged expert reports and have briefed *Daubert* and Defendant’s Motion for Summary  
21 Judgment. Likewise, numerous motions in *limine* have been exchanged and responded to by both  
22 parties.

23 **Monsanto’s Statement**

24 Monsanto will assert the following defenses at trial: (1) Plaintiffs cannot prove based on  
25 scientifically reliable evidence that Roundup caused their non-Hodgkin’s lymphoma; (2)  
26 Roundup was designed, manufactured, marketed and labeled with proper warnings, information,  
27 cautions and instructions, in accordance with the state of the art and the state of scientific and  
28 technological knowledge; (3) Roundup is not defective or unreasonably dangerous; (4) Plaintiffs’

1 recovery, if any, shall be reduced by those payments that Plaintiffs received from collateral  
2 sources; (5) Monsanto made no warranties of any kind or any representations of any nature to  
3 Plaintiffs and in any event, Plaintiffs failed to give notice of any breach thereof; and (6) Plaintiffs  
4 cannot prove any conduct warranting imposition of punitive damages.

5 In addition and as presented in Monsanto's Motion for Summary Judgment on Non-  
6 Causation Grounds (ECF No. 2419), Monsanto asserts the following defenses that remain to be  
7 decided by the Court: (1) Plaintiffs' claims are preempted under FIFRA; (2) Plaintiffs' warnings-  
8 based claims should be dismissed because the alleged cancer risks were not known or knowable  
9 by the scientific community; (3) Plaintiffs have not demonstrated a right to seek punitive  
10 damages under California law; and (4) Plaintiff Sioum Gebeyehou's claims are barred by the  
11 applicable statute of limitations.

12 **B. Statement of All Relief Sought.**

13 **Mr. Hardeman seeks the following relief at trial:**

- 14 1. Compensatory damages in excess of the jurisdictional amount, including, but not  
15 limited to pain, suffering, emotional distress, loss of enjoyment of life, and other  
16 non-economic damages in an amount to be determined at trial;
- 17 2. Compensatory damages for past and future damages, including, but not limited to,  
18 Mr. Hardeman's pain and suffering for severe and permanent personal injuries  
19 sustained by him including health care costs and economic loss;
- 20 3. Economic damages in the form of medical expenses, out of pocket expenses, and  
21 other economic damages in an amount to be determined at trial;
- 22 4. Punitive and/or exemplary damages;
- 23 5. Pre-judgment interest;
- 24 6. Post-judgment interest;
- 25 7. Awarding Mr. Hardeman reasonable attorneys' fees;
- 26 8. Awarding Mr. Hardeman the costs of these proceedings; and
- 27 9. Such other and further relief as this Court deems just and proper.

1 **Monsanto's Statement**

2 Monsanto respectfully seeks the following relief: (1) that the Court deny with prejudice  
3 each of Plaintiffs' claims for relief and enter judgment for Monsanto; (2) that the Court deny any  
4 claims by Plaintiffs for attorney's fees; and (3) that the Court award Monsanto costs of suit and  
5 any and all other relief to which Monsanto is justly entitled.

6 **C. Statement of All Relevant Stipulated or Undisputed Facts.**

7 The following facts are undisputed or stipulated:

- 8 1. Plaintiff Edwin Hardeman was diagnosed with DLBCL in February 2015.  
9 2. Plaintiff Edwin Hardeman was 66 years old at the time of his DLBCL diagnosis.

10 **D. Statement of Settlement Efforts.**

11 There have been no settlement discussions to date.

12 **E. Statement of Witnesses Likely to Be Called By Both Sides.**

13 **Plaintiffs' Statement**

14 Attached as Exhibit 1 is Mr. Hardeman's Exhibit List. The parties previously exchanged  
15 the proposed list for the *Stevick* and *Gebeyehou* cases.

16 **Monsanto's Statement**

17 Monsanto has provided witness lists for the *Hardeman*, *Stevick*, and *Gebeyehou* cases.  
18 The list of witnesses Monsanto will or may call in the *Hardeman* trial is attached hereto as  
19 Exhibit 2. The list of witnesses Monsanto will or may call in the *Stevick* trial is attached hereto  
20 as Exhibit 3. The list of witnesses Monsanto will or may call in the *Gebeyehou* trial is attached  
21 hereto as Exhibit 4. Monsanto understands from counsel for Plaintiffs that they intend to file  
22 their witness lists for the *Stevick* and *Gebeyehou* cases tomorrow.

23 **F. Statement of Length of Trial.**

24 **Plaintiff's Statement**

25 Because the trial is bifurcated with Phase 1 consisting only of causation, Plaintiff  
26 estimates the trial to last approximately six weeks.

1 **Monsanto's Statement**

2 Monsanto estimates that Phase 1 will last two weeks and Phase 2, if reached, will last two  
3 weeks.

4  
5 DATED: January 30, 2019

Respectfully submitted,

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DATED: January 30, 2019

Respectfully submitted,

/s/ Brian L. Stekloff  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 30th day of January 2019, a copy of the foregoing was filed with the Clerk of the Court through the CM/ECF system which sent notice of the filing to all appearing parties of record.

/s/ Brian L. Stekloff