

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: ROUNDUP PRODUCTS
LIABILITY LITIGATION

MDL No. 2741

Case No. 16-md-02741-VC

This document relates to:
ALL ACTIONS

**PRETRIAL ORDER NO. 74:
TENTATIVE VIEW ON MONSANTO'S
SPECIFIC CAUSATION EXPERTS**

The Court's tentative view with respect to Monsanto's specific causation experts is as follows: In October 2018, the Court stated, without objection, that only the experts whose opinions were put to the test at Phase I would be permitted to present opinions on general causation at trial. The plaintiffs and their specific causation witnesses appear to be operating consistent with that approach. Yet in November 2018, Monsanto disclosed reports from specific causation experts that effectively included opinions on general causation – i.e., that Roundup is simply not a risk factor for NHL. It appears that these opinions should, in large part, be excluded. Presumably it would be appropriate for these experts to attack the decisions by the plaintiffs' experts to exclude other risk factors such as hepatitis C. Perhaps these experts may testify briefly that they do not believe NHL is a risk factor at all for the reasons given by Monsanto's general causation experts, but without elaboration. Presumably it would be appropriate for them to testify that even if Roundup were a risk factor, it nonetheless would not have caused a particular plaintiff's NHL, either because it's a weak risk factor at best given the studies that the plaintiffs' experts rely on, or because there are much stronger risk factors. What these experts may not do, however, is offer an analysis of the epidemiological literature to support an opinion that NHL is not a risk factor, since they offered no such analysis at Phase I. The parties should be prepared to discuss this tentative ruling at

Wednesday's hearing. In particular, Monsanto should be prepared to explain how it could be prejudiced by this ruling in light of its ability to present general causation testimony from numerous other witnesses (and how it would not be a waste of the jury's time to have more than those witnesses testifying on the topic of general causation).

IT IS SO ORDERED.

Date: February 11, 2019



Honorable Vince Chhabria
United States District Court