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'Not a Fluke': Plaintiffs Lawyers See Changing Tide in \$175M Roundup Verdict

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What You Need to Know

- Two Roundup plaintiffs verdicts, including one for \$175 million, have broken a long-running win streak for Monsanto.
- Plaintiffs lawyers said it's more than just a fluke.
- **Thomas Kline** said the plaintiffs undermined Monsanto's long-used causation defense.

The defense strategy that carried Monsanto through several years of success in litigation over Roundup might have run its course.

The company's nine-trial streak of victories ended this month with a pair of back-to-back plaintiff wins—with the latest being a \$175 million verdict Oct. 27 in Philadelphia.

And according to Kline & Specter's Thomas Kline, one of the leads on the Philadelphia case, the recent verdicts are only the start of a tide turning in Roundup plaintiffs' favor.

"We believe that Monsanto will run into the same buzzsaw now each time that they try to put forward what appears to be ... their only defense, which is causation," Kline said.

Kline and co-counsel Jason Itkin of Houston-based Arnold & Itkin represented plaintiff Ernest Caranci, who claimed his regular, unprotected use of Roundup over the course of about 20 years caused him to develop non-Hodgkin lymphoma.

Monsanto has maintained that there is no evidence that the weedkiller is carcinogenic.

Manuel Cachán, a Los Angeles-based partner at Skadden, Arps, Slate, Meagher & Flom defending the company, told jurors during opening statements in the Philadelphia trial, "No cause, no case."

The words are a common refrain for Monsanto in Roundup trials, according to Kline.

“That’s their whole defense,” Kline said, “and their defense collapses when the plaintiffs lawyers can show that the epidemiology and the science and the medicine support a finding that there is, in fact, causation.”

Kline said the plaintiffs team, which also includes Kline & Specter mass torts department chair Tobi Millrood, reviewed transcripts from prior trials and adapted their case to undermine the defense Monsanto had been using.

The defendant claimed that the active ingredient in Roundup, glyphosate, is safe to use and that the majority of non-Hodgkin lymphoma cases are caused by random copying errors in reproducing cells rather than environmental factors.

Kline said the plaintiffs were able to present “rock-solid” evidence of causation, taking advantage of a growing body of scientific studies linking Roundup to cancer and challenging the credibility of studies Monsanto cited.

The jury was convinced, finding that the plaintiff’s use of Roundup caused his cancer and awarding \$25 million in compensatory damages and \$150 million in punitive damages.

“Monsanto monumentally failed in this trial in their usual case, which says that cancer is bad luck and glyphosate is safe,” Kline said.

Monsanto’s parent company, Bayer, said it intends to challenge the result.

A company spokesperson said in a statement, “Monsanto believes that, but for the errors in evidence, jury instructions, and other legal rulings at trial, the jury in *Caranci* would not have reached their unfounded verdict—and excessive damages—against Monsanto that conflicts with the overwhelming weight of scientific evidence and the regulatory consensus worldwide that Roundup can be used safely and is not carcinogenic.”

The case, captioned *Caranci v. Monsanto*, was the first Roundup lawsuit to go to trial in the Philadelphia Court of Common Pleas. **Kline said he believes the case is also the first verdict in a case about the non-commercial use of Roundup, which the trial lawyer said Monsanto typically does not value as highly.**

“Bellwether cases are meant to set benchmarks and give the parties a direction to the litigation,” Kline said, “and we couldn’t have had a better benchmark.”

The next trial in Philadelphia’s Roundup program is set to begin jury selection Thursday, with Houston firm Williams Hart & Boundas representing the plaintiff. The third trial, scheduled for January, is another case helmed by the Kline & Specter and Arnold & Itkin team, which also has cases in Georgia, Illinois and other venues.

The National Litigation

The week prior to the *Caranci* verdict, a St. Louis jury handed up a comparatively modest \$1.25 million verdict, in which the jury declined to award punitive damages.

Prior to that, there had been no plaintiff verdicts since before the COVID-19 pandemic.

But trials over Roundup started off in plaintiffs' favor.

R. Brent Wisner, managing partner of Los Angeles-based Wisner Baum, won two of the three plaintiff verdicts that came out of the first batch of Roundup trials—one for \$289 million in 2018 and one for \$2 billion in 2019.

Wisner said many Roundup plaintiffs went on to settle their claims, but then Monsanto began its winning streak. In Wisner's words, the company was "clobbering the plaintiffs bar."

Wisner said the recent change of tide is, in part, the result of high-caliber lawyers trying cases in more plaintiff-friendly jurisdictions. He said it should signal to Monsanto that it's time to bring the litigation to a close and take Roundup off the market.

Wisner said, "It shows that the original verdicts, which obviously set the stage for large settlements, were not a fluke."