

Monsanto Appeals \$175M Roundup Verdict In Pa.

By **P.J. D'Annunzio**

Law360 (January 2, 2025, 7:16 PM EST) -- Bayer AG unit Monsanto has asked the Pennsylvania Superior Court to overturn a Philadelphia jury's award of \$175 million to a man who claimed Roundup weedkiller caused his cancer, arguing that a court officer coerced the jury into coming up with a verdict that was not based on science.

In a **brief** filed Monday to the appellate court, Monsanto claimed a juror's sworn statement showed that a court clerk in the Philadelphia Court of Common Pleas told the deliberating jury in plaintiff Ernest Caranci's case that if they were unable to reach a verdict on the Friday following the conclusion of the case, they would have to return on Monday, Tuesday and Wednesday before the judge would declare a mistrial.

"That message departed from Pennsylvania's carefully worded standard instruction for such situations, which minimizes the risk of coercing jurors," the brief said. "The effect was immediate: one juror threatened not to return, and the jury promptly reached a verdict by the narrowest permissible margin."

The **verdict** was handed up Oct. 31, 2023, by the jury in Philadelphia Court of Common Pleas Judge James C. Crumlish III's courtroom. It included \$25 million in compensatory damages and \$150 million in punitive damages. Later, Judge Crumlish tacked on **\$2.3 million** in delay damages.

In addition to arguing the court clerk improperly spurred a verdict, Monsanto claimed the jury was prevented by Judge Crumlish from hearing that scientific bodies around the world have declared glyphosate – Roundup's active ingredient – to be safe.

Additionally, Monsanto argued that the court was in defiance of the Third Circuit's ruling in *Schaffner v. Monsanto*, in which the court held that state law failure-to-warn claims based on product warning labels about the weedkiller are preempted by federal law.

Caranci argued in a reply brief docketed Monday alongside Monsanto's brief that the verdict should be upheld, disputing the account of the clerk allegedly coercing the jurors.

"One problem with this account is that it never occurred," Currency argued. " ... Judge Crumlish's opinion already provides a powerful defense of the rectitude of his courtroom staff and the administration of justice while the jury deliberated. Not even Juror 9's letter suggests that Judge Crumlish directly or indirectly coerced the jury into rushing its deliberations."

Caranci also argued that the judge's evidentiary rulings were correct and should not be disturbed.

Monsanto said in an email to Law360 on Thursday that the whole trial was "infected" with legal error

"One of the most serious errors that warrants review and relief is the double standard set by the court on the admission of foreign science: the court allowed plaintiffs to build their case based on an outlier report by one foreign scientific body, but then repeatedly ruled that foreign bodies are irrelevant and that Monsanto could not demonstrate that regulatory bodies worldwide sided with EPA," Monsanto said.

Caranci's counsel said in an email to Law360 on Thursday that he believed Monsanto's appeal would fail.

"We are confident that our appellate courts will rebuff the unrelenting attacks by Monsanto on our juries, judges and our courts and affirm the jury verdict and Judge Crumlish's well reasoned rulings and extensive opinions," said Tom Kline, an attorney for Caranci.

Monsanto and Bayer are represented by Manuel Cachán of Skadden Arps Slate Meagher & Flom LLP, Moira Penza of Wilkinson Stekloff LLP, Chanda A. Miller of Barnes & Thornburg LLP and Erin L. Leffler of Shook Hardy & Bacon LLP.

Caranci and his wife are represented by Thomas R. Kline, Tobias L. Millrood, Charles L. Becker and Melissa A. Merk of Kline & Specter PC and Jason A. Itkin, Kurt B. Arnold, Noah M. Wexler and Roland M. Christensen of Arnold & Itkin LLP.

The case is Ernest Caranci et al. v. Monsanto Co. et al., case number 993 EDA 2024, in the Superior Court of Pennsylvania.

--Editing by Linda Voorhis.