



## **U.S. Government, 7 States Among 16 Parties To File Amicus Briefs In Monsanto's Hardeman Appeal**

**WHIPPANY, N.J., December 23, 2019** – Bayer said today that six amicus briefs were filed in its appeal of the *Hardeman* case before the Ninth Circuit Court of Appeals, representing 16 public, professional, trade and commercial entities. The briefs make arguments on a range of issues including federal preemption, *Daubert* standards, and the admissibility of expert testimony, causation, and punitive damages, which are at the center of Monsanto's appeal.

"We are encouraged that the U.S. government, several states, and many other parties chose to offer the court their legal perspectives on the key issues in our appeal. The number and stature of these parties speaks clearly to the importance of the issues in dispute in this case to a diversity of interests including governments, health care providers, farmers, and manufacturers," said Bayer.

The amicus [briefs](#) were filed by:

- The United States through the Department of Justice and Environmental Protection Agency
- The states of Nebraska, Idaho, Louisiana, North Dakota, South Dakota, Texas, and Utah
- California's Medical Association, Dental Association, and Hospital Association
- The U.S. Chamber of Commerce and Pharmaceutical Research and Manufacturers of America
- Genentech
- CropLife America

In its brief, the U.S. Government said: "Plaintiff asserted safety labeling requirements exist under California law in addition to and different from that required, reviewed, and approved by EPA. Plaintiff is wrong and his lawyers sailed directly into preempted territory in how they opted to try this case." It continues: "Under FIFRA, the label is the law. EPA approved the label for the pesticide/herbicide at issue here, Roundup, through a registration process that did not require a cancer warning. In fact, EPA has never required a labeling warning of a cancer risk posed by Roundup, and such a warning would be inconsistent with the agency's scientific assessments of the carcinogenic potential of the product."

The states argue: "The district court misapplied this Circuit's *Daubert* standard at both phases. The district court was not presented with a case where the disease was unique or rare or did not have a number of peer reviewed studies finding no association between glyphosate and NHL and, in turn, Hardeman's NHL. There was no reason for an expert's 'art' to take precedence over 'science' or 'scientific consensus'. The district court should have excluded Hardeman's expert testimony instead of opening the gate to shaky, weak, and unreliable opinions that glyphosate causes NHL and, more specifically, caused Hardeman's NHL. By admitting this unreliable expert testimony, the district court failed to protect the jury from misleading expert evidence and, thus, has adversely affected agriculture and farmers in the *amici* States."

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