



Pesticide newsletter

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Jurisdictional news



United States: Bayer's strategy for dealing with Roundup lawsuits

Bayer is paying a plaintiff to appeal a ruling in favor of the company in a [lawsuit](#) he filed over cancer he believes is linked to his use of the herbicide Roundup. Bayer's goal is to uphold the positive ruling at the federal level.

John Carson filed a lawsuit against Monsanto, since purchased by Bayer, in 2017 after contacting malignant fibrous histiocytoma (MFH) due to his exposure to Roundup. His case was treated outside of the other Roundup cases because there is less scientific data regarding the link between Roundup and MFH than there is between Roundup and Non-Hodgkin's Lymphoma. In this case, the judge in the U.S. District Court for the Southern District of Georgia ruled on December 21st, 2021, in favor of Monsanto. It declared that Carson's complaint was preempted because the U.S. Environmental Protection Agency (EPA) had approved the product's label and thus the company had no duty to warn of a cancer risk.

But for this favorable decision to have weight beyond this specific case and be likely to influence the thousands of lawsuits currently pending, Bayer's strategy is for it to be upheld by a federal appeals court and then ask for the Supreme Court to rule. This conclusion is more likely to happen if different appeals courts have reached conflicting conclusions. And Bayer has lost its [appeal](#) against Hardeman on May 14th, 2021. The company offered to pay John Carson's lawyers an undisclosed sum to appeal a court decision in its favor!

This astonishing action was [denounced](#) by the lawyers who represented the plaintiffs who were victims of Roundup and for whom Monsanto's responsibility was established as a fraud. They consider that Monsanto is buying a favorable decision of the court of appeal and that it should be rejected. According to their statement to the court, Monsanto's attorney told Mr. Carson's attorney that Monsanto would never pay his client anything unless he appealed the district court's preemption decision - a decision Monsanto won - and that Monsanto was offering Carson money to appeal the decision.

The stakes for Bayer are high. A victory for Bayer in the Supreme Court means victories in federal and district courts, which would end a considerable amount of litigation. The Roundup lawsuits number in the tens of thousands and pose a significant threat to the German chemical company, which lost the first three and must pay \$11.6 billion to end the ongoing litigation by about 125,000 U.S. users of Roundup.

For the plaintiffs' lawyers, the Carson settlement "erodes the very foundation of our justice system, which is based on the principle that opposing parties are truly adversarial - not that they pay each other to manufacture controversies and seek advisory opinions." They ask the judge to reject this collusion appeal.

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