

# New Roundup Cancer Trial Starting in California

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*Lawyers representing a woman suffering from cancer are prepared to face off against Monsanto and its German owner Bayer AG in a California courtroom on Monday in what is set as the fourth trial over allegations Monsanto’s popular Roundup weed killers cause non-Hodgkin lymphoma (NHL).*

Jury selection in the case of Donnetta Stephens v. Monsanto is expected to take several days and the trial itself is expected to last up to eight weeks. Judge Gilbert Ochoa of the Superior Court of San Bernardino County in California is overseeing the proceedings.

Monsanto has lost three out of three previous trials, with a jury in the last trial – held in 2019 – ordering a staggering [\\$2 billion in damages](#) due to what the jury saw as egregious conduct by Monsanto in failing to warn users of evidence – including numerous scientific studies – showing a connection between its products and cancer. (The award was later shaved to \$87 million.)

Lawyers for [Stephens](#) say that she was a regular user of Roundup herbicide for more than 30 years and it was that extended exposure to the glyphosate-based products made popular by Monsanto that caused her NHL.

Stephens was diagnosed in 2017 and has suffered from numerous health complications amid multiple rounds of chemotherapy since then. Because of her poor health, a judge in December granted Stephens a trial “preference,” meaning her case was expedited, after her lawyers [informed the court](#) that Stephens is “in a perpetual state of pain,” and losing cognition and memory.

She is one of tens of thousands of plaintiffs who filed U.S. lawsuits against Monsanto after the World Health Organization’s cancer experts classified [glyphosate](#) – the active ingredient in Monsanto’s herbicides – as a probable human carcinogen with an association to non-Hodgkin lymphoma.

Judge Ochoa has made several pretrial rulings, including agreeing with Monsanto that federal law regarding pesticide regulation and labeling preempts “failure to warn” claims under state law and Stephens’ lawyers would not be able to pursue such claims.

The plaintiffs still will be able to argue that separate from the labeling issues, Monsanto could have, and should have, warned consumers about the potential cancer risk in other ways, according to Stephens' lawyer Fletcher Trammell. He and Stephens' other lawyers will seek to prove their claims that Monsanto made an unsafe herbicide product and knowingly pushed it into the marketplace despite scientific research showing glyphosate-based herbicides could cause cancer.

Monsanto was purchased by Bayer AG in 2018 and is no longer a stand-alone company but is the named defendant in ongoing litigation. Bayer insists, just as Monsanto has for decades, that there is [no valid evidence](#) of a cancer connection between its weed killing products and cancer.

### Questions for the Jury

Jury selection is deemed a critical part of any trial and as the opposing sides look at the pool of prospective jurors for the Stephens trial they will be screening them for signs of bias. According to a jury questionnaire, among the questions jurors are to be asked are these:

- Do you believe most companies' scientific studies regarding safety are altered to further a specific agenda?
- Do you have any opinions about how well most corporations communicate safety information about their products to the public?
- Do you, or does anyone close to you, have any health problems or concerns resulting from any products you or they have used or been around?
- Do you believe that any exposures to hazardous chemicals, no matter how small, is harmful to humans?

The jurors who are selected will face a daunting amount of evidence, including scientific studies and internal Monsanto records. The [list of evidence](#), in the form of 'exhibits' to be presented at trial, runs more than 250 pages and includes many damning Monsanto emails and other documents that led a federal judge who has been overseeing nationwide Roundup litigation to state [in a recent order](#) that the trials have provided "a good deal of damning evidence against Monsanto—evidence which suggested that Monsanto never seemed to care whether its product harms people."

There also will be many witnesses involved in the trial. Stephens' lawyers have listed 39 people they intend to call to testify, including deposition testimony of Monsanto scientist Donna Farmer, former Monsanto Chairman Hugh Grant, and multiple other Monsanto executives.

Monsanto's [witness list](#) includes many of the company's executives and scientists as well as former Environmental Protection Agency (EPA) official Jess Rowland, who has been revealed as an ally and friend to the company in the ongoing litigation. Monsanto has listed a total of 32 individuals as witnesses for the defense.

### Bayer Looking for a Win

In the first trial against Monsanto, a unanimous jury awarded plaintiff Dewayne Johnson [\\$289 million](#); the plaintiff in the [second trial was awarded \\$80 million](#); and the jury in the third trial awarded more than [\\$2 billion](#) to husband-and-wife plaintiffs. All the awards were reduced sharply by judges involved in the cases but the verdicts assigning blame to

Monsanto for the cancers have not been overturned.

Bayer sees the preemption argument as critical to its ability to limit the ongoing litigation liability. The company has made it clear that it hopes at some point to get a U.S. Supreme Court finding that under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the EPA's position that Monsanto's herbicides are not likely to cause cancer essentially bars complaints that Monsanto didn't warn of any cancer risk.

Even as it pursues a preemption ruling, Bayer said last year that it had agreed to pay close to \$11 billion to settle existing Roundup cancer claims. But many law firms have dismissed the individual offers for their clients as insufficient, and they continue to press for more trials.

Bayer [said recently](#) it is considering pulling Roundup products from the U.S. market for residential users, though not from farm use.

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