

Monsanto Wins Roundup Trial Brought By Gardener

By **Cara Salvatore**

Law360 (May 23, 2023, 10:30 PM EDT) -- A Missouri jury cleared Monsanto of liability Tuesday evening in a gardener's trial claiming its Roundup weed killer caused her lymphoma, in what the company says is its seventh consecutive Roundup trial win.

The verdict came down in the evening local time in St. Louis County circuit court, where a jury had heard closing arguments just a few hours earlier in the trial by former longtime Roundup user Sharlean Gordon. Gordon was first diagnosed with diffuse large B-cell lymphoma, a type of non-Hodgkin's lymphoma, in 2006, and was in treatment for many years. She had used Roundup frequently during the warm months starting in 1992, before stopping in 2017.

The company said via a spokesman Tuesday evening, "While we have great sympathy for the plaintiff in this case, the jury has weighed the evidence from both sides in this case and concluded that Roundup is not responsible for her injuries. This decision is consistent with the assessments of expert regulators worldwide as well as the overwhelming evidence from four decades of scientific studies concluding that Roundup can be used safely and is not carcinogenic.

Gordon's lawyers, Aimee Wagstaff and Fidelma Fitzpatrick, said in a statement Tuesday, "Our entire team have great respect for the jury process and judicial system. We feel deep sympathy for our client who has sacrificed so much, but we are deeply honored to represent such a brave woman. Although we are disappointed with the outcome on behalf of Ms. Gordon, we look forward to continuing the fight and don't believe this outcome dictates anything for future claimants."

Monsanto stressed to jurors during the trial that no national regulatory agency has banned the substance. The International Agency for Research on Cancer, a branch of the World Health Organization classified glyphosate as a probable human carcinogen in 2015, but it has no power to ban the substance anywhere, and Monsanto said its findings were based on theoretical, astronomical levels of exposure.

The company also has stood firmly on recent scientific findings that about 96% of non-Hodgkin's lymphomas are due to random DNA copying errors. It called one of the authors of that research as an expert witness.

It's "probably the biggest discovery in cancer research in a very, very long time," its lawyer told the jury in closing arguments.

Fitzpatrick told the jury that the copying-error category includes items such as toxin-caused errors; they're just not classified separately. The remaining small proportion of known causes are genetics and a category called "environmental," which Fitzpatrick told the jury does not include toxins, but only infections.

"And so you know what's buried in that 96%? All of the non-Hodgkin's lymphoma that's caused by exposure to Roundup," she said.

Gordon's counsel told the jury Tuesday in closing arguments that the company had never done certain kinds of scientific testing on the Roundup formula — which includes glyphosate, a surfactant, and other ingredients — and instead has chosen to burnish its product's reputation through press influence and scientific meddling.

"Monsanto's best friend here is doubt and controversy. That's what they have peddled for 50 years about Roundup and glyphosate. It allows them to go to the press ... it gives them something to talk about ... doubt and controversy do not protect Monsanto's customers, and they did not protect Sharlean Gordon from what is in those bottles," Fidelma Fitzpatrick, one of Gordon's lawyers, said.

But Monsanto has insisted that the testing possible to do has been done. Certain kinds of testing are not physically possible, like testing the formula on rats, because the amount of water they would need to ingest would kill them.

The company also told the jury that its expert witnesses were actual experts, whereas the plaintiffs' were not. For example, Beate Ritz, an epidemiologist, "gets hired by plaintiffs counsel and, bam, Roundup causes non-Hodgkin's lymphoma," Monsanto's lawyer said.

Gordon is represented by Aimee Wagstaff and Fidelma Fitzpatrick.

Monsanto is represented by Katherine Hacker of Bartlit Beck LLP.

The case is Gordon v. Monsanto, case number 17SL-CC02721, in the Circuit Court of St. Louis County.

--Editing by Peter Rozovsky.