

## Viewpoint: Controversy flares over activist 'predator lawyers' who 'massaged facts' in the Monsanto-glyphosate case



For Predator lawyers to succeed in plundering the corporate honeypot, they need a certain breed of scientist bent enough to willingly provide dramatic data worthy of terrifying a jury of vulnerable non-specialists.

Most of these researchers have long since left the lab. While still donning their white coats, these contractors cum consultants have found personal opportunity in the dispute process. Instead of discovery, they breed disruption; instead of bettering life, they are bettering themselves; instead of the occupying the lab, they preoccupy the lawsuit. These are the scientific tort-torts.

### Research recidivists

There are in any profession, in any population, different motives and aspirations that drive practice. In the sciences, we speak often about research being driven to discover, to learn, to solve problems and improve the quality of life. Of course there are issues of patents, funding and investment, but this is necessary for ensuring the common good—more research, better science, advancing the body of knowledge. The scientific method, with its peer evaluation and replication/falsification approach ensures that the cheats will be found out over time. But there is no science per se, but rather sciences. Often dispute is built into the process as biologists challenge chemists or statisticians have other interests than toxicologists and epidemiologists enjoy their personal space. Dispute, built into the scientific method, is good for the learning process albeit often painful to an impatient public.

Tort-torts are research recidivists ready to abandon proper scientific process for lucrative payouts and private jets. Their radar is not research-oriented, not discovery-driven but rather politically powered and financially focused. Generally tort-torts are late in their careers and padding their pensions, but what motivates these people to abandon the scientific endeavour? Did events overtake ambition in the research process? Did their scientific community reject their views or slight their egos? Is it a pure dash for cash as retirement dims their prospects? Did their cynicism about the system create professional victims? Sadly, in the academe, I see far too often how this cynical cancer infects their post-docs who see little hope for the research endeavour ... but a lot of personal opportunity and vindictive vanity.

The tort-torts' self-interested political engagement marks a lamentable watershed in the evolution from science-based policy towards policy-based science. This shift was provoked by the precautionary policy preoccupation of the last decade where providing a political evidence of a consensus of scientists was more valued than a scientific evaluation of evidence. But the latest step is both sinister and corrupt, threatening to destroy the last shred of public respect for research. Leaving the lab for the lawyer, these would-be scientists are no longer tasked with providing the best science for policymakers but rather, as high-paid consultants in tort lawsuits, these opportunists are providing evidence that fits the objectives of the lawsuits. Bottom line: if they don't reliably deliver the goods in front of a jury of scientific illiterates, they won't get paid.

## Scientists who slime



**Lexicon Monger**

**To slime**  
/sliɪm/ ⓘ  
verb - *slimed, sliming*

The distortion of scientific facts and evidence by opportunists for sheer self-interest of lucrative litigation consulting fees. Scientists slime when they knowingly lie, withhold evidence or attack other scientists for the purpose of earning fees in a tort lawsuit.

*Chris Portier slimed EFSA and the BfR to help his Predators secure IARC as a credible source for their lawsuits.*

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The verb “to slime” means the distortion of facts and evidence by opportunists for sheer self-interest of litigation consulting fees. Forsaking any research reality, these former scientists slather their slime of personal opportunity (most often financial) upon research debates. When a tort-tort slimes, they are pouring a putrid sludge of personal interest, spreading fear and doubt on facts and reality. In the SlimeGate context, a scientist or activist slimes when they knowingly lie, withhold evidence or attack other scientists for the purpose of winning a tort case: a situation where they are paid to perform by Predatort lawyers who have an interest that is neither ethical nor fact-based.

[IARC-gate](#) provided us with a wide spectrum of slime:

- **Sliming as lying:** When Christopher J Portier speaks on glyphosate, whether it is to a parliament, a journalist or in a court of law, he is [sliming for Predatort law firms](#) (at 500 USD/hr) who are only concerned with large-scale litigation payouts, not with facts, truth or justice. It was all a game to Portier; consumers and farmers suffer from his “bit of fun” but he doesn’t care.

I am also having a bit of fun pushing the IARC Glyphosate finding into the European decision on re-registration. I am not sure it will have any impact other than to make EFSA uncomfortable, but I am trying. There have been a few national

Portier’s letter to Linda Birnbaum: Callous, cold and careless

- **Sliming as withholding evidence:** When the chair of the International Agency for Research on Cancer monograph on glyphosate, Aaron Blair, another high-paid litigation consultant, chose to [withhold evidence](#) from the [Agricultural Health Study](#), with over 89,000 cases showing no link between glyphosate and cancer, knowing full well it would have an influence on the IARC monograph conclusions, he showed how slime clogged his conscience.
- **Sliming as attacking opponents:** When IARC fonctionnaires, Kate Guyton and Kurt Straif, [attacked EFSA](#) and suggested they were in the pocket of Monsanto, they were gratuitously attacking another scientific agency and feeding hostile journalists (suggesting that the difference between a

risk-based approach and a hazard-based approach was political). You don't get any slimier than these disgraceful individuals.

Scientists who slime for a living for Predatort law firms are not interested in research for the sake of discovery; they are not dedicating their time to solving problems, saving lives, improving wellness or protecting the environment. These tort-torts are no longer acting as scientists; they are, rather, politically motivated activists interested only in lining their own pockets while pretending to be concerned for public health. More distasteful are those exacting revenge on an establishment whom they may have felt had not given them the adulation their petty little egos had craved.



See [part 2](#) in this series to learn about UC Berkeley biologist Tyrone Hayes

What a terrible way to go out when even their post-docs are waiting for them to “just leave already.” The slime they leave behind when posing in their white coats as litigation consultants in court-room show-trials hurts everyone carrying on the scientific tradition.

### **Illustrations: How do tort-torts slime science?**

Wouldn't it make sense to promote litigation sciences? More litigation interest creates more funding for more research resulting in more public interest in science?

Well ... no!

“Science” in most toxic tort lawsuits is usually what is on trial and the plaintiffs are often representing greedy or manipulative parties. The jury members are chosen on the basis of their lack of scientific expertise (remember that the Stokes trial jury on the right of a teacher to teach evolution found him guilty after nine minutes of deliberation). Science is only used in a court to provide a “yes” to the motivated plaintiff. Once that is done, the necessary drama is added and the man in the white coat quietly picks up

the cashier's check. The Predatorts use whatever science (and scientist) they can find for that particular end, often pushing scientific possibility to the extreme and rejecting responsible scientific thinking. This is what makes a corrupted agency like IARC so attractive to them.

Several examples of sliming science for profit:

## Popcorn Lung

A Colorado man, Wayne Watson, was [awarded \\$7.2 million dollars](#) from popcorn producers and a supermarket chain for a lung obstruction (bronchiolitis obliterans) he claimed came from his obsessive ten-year long two-bags-of-microwave-popcorn-a-day habit. Apparently there was no warning label on the popcorn packaging, because, well, that risk was unheard of outside of factory production exposure levels. Apparently there was no science allowed in the courtroom either.

Mr Watson's profession had him working with carpet cleaning materials but this evidence was worthless (cleaning products have warning labels and could not permit such a large payout). The US FDA has concluded that diacetyl is safe for consumers, but still, skittish popcorn manufacturers have removed this product from their popcorn. Some clever litigation tort-tort, Cecile Rose, working with bronchiolitis obliterans litigation specialist, Ken McClain (proudly referring to himself as the "[Popcorn Lung Lawyer](#)"), was able to prove it was not impossible for Mr Watson, now fully recovered, to simulate factory conditions in his living room (among, no doubt, a wide array of other contributing factors).

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The Watson case was more a question of how to get a "good enough" answer to extort money from the food industry than of science advancing the common good through discovery. Truth be told, eating two bags of microwave popcorn a day for ten years is just plain stupid but I can give you 65% of 7.2 million reasons why the Predatorts and their tort-torts won't admit that.

## Glyphosate

In the recent **Monsanto-Ate-Your-Mother tort trial**, former assistant professor, Chad Nabhan, a clinician who retired from medical practice at an early age to consult on thousands of glyphosate-Monsanto cases, claimed it is not impossible to imagine Dwayne Johnson contracting non-Hodgkin's lymphoma (NHL) after only 15 months working as a groundskeeper. He was able to ignore other factors in making this claim – something a credible scientist would never dare.

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Nabhan: 10 years? 20 years? If his lawyer tells him 15 months, he'll make it happen.

Nabhan admitted in a [deposition](#) that normal latency for NHL would be between 10 to 20 years with a wide range of potential contributing risk factors, but in a court setting, these facts are only probabilities while the Predators paying his fees were looking at utilizing any possibilities Nabhan could conjure: they were looking for someone in a white coat to provide a "Yes!" and Nabhan [delivered](#) it to the 12 Angry Men. Ka-Ching! Evidence that [Nabhan lied](#) would be handled in another case and won't affect the Dwayne Johnson payout nor BaumHedlund's little honeypot.

## Johnson & Johnson talc cases

Sometimes a "Yes" is not even necessary with Predators winning with the inability to prove that it's not a "No." The remarkable scientific integrity stress test of the **talcum powder cancer treasure hunt** has created a boom-time for Predators and tort-torts. Several studies have shown that asbestos residues in talc might cause ovarian cancer. Some motivated tort-torts got IARC to do a [monograph](#) where the shaky link to cancer was etched in WHO-agency stone (although that IARC panel did indeed have issues). The chair of that woeful IARC monograph, Jack Siemiatycki, has been cashing in as a litigation consultant in Predator lawsuits against J&J (although his science on the subject is quite poor, resulting in his plaintiffs in the [Escheverriav](#) appeal, for example, losing her settlement).

Lawsuits, particularly against Johnson & Johnson ([12,000 cases](#) at the moment), started bubbling over when the FDA interceded and confirmed that there has been no traces of asbestos in talcum powder since at least 1972. Tests on old packages confirmed that. No problem. Scientists then started looking for evidence that the ovarian cancers originate not from the asbestos but from the talc itself. However, asbestos has a higher shock value for jury payouts, so even though there was no proof of asbestos in talcum powder, Predators were pouring through J&J emails looking for a hint of collusion (using the "Monsanto-ate-your-mother" strategy of claiming bad intentions when the science doesn't deliver). They claimed that J&J bought off FDA officials, they hid data ... Predator Mark Lanier proudly referred to himself as a [magician](#) after he won a \$4.7 billion settlement against J&J – the magic being his capacity to

win with innuendo and without any scientific evidence.

It should be noted Siemiatycki also chaired the IARC cell phones monograph so he might have better luck as a tort-tort there. Further fun fact: Elisabete Weiderpass, present head of IARC, was also on the talc monograph and tried to draw a link with cancer in several articles with Siemiatycki (more on that in a later SlimeGate chapter).

Is cancer something you can catch like the common cold? Could someone's living room be likened to an industrial production zone? Should other risk factors be excluded so as to provide a clear "jury-friendly" causal link. Should tort-torts be allowed to make such ridiculous inferences in front of scientifically illiterate juries? Apparently some do (if you pay them enough) and their tort-tort behavior is destroying the reputation of all sciences.

## **Can you be bought?**

What causes a tort-tort like Chad Nabhan to leave his clinic where he treated cancer patients and become a full-time consultant testifying on glyphosate cases? Why would Jack Siemiatycki risk undermining the scientific endeavor and public trust in technology? Before I get high and mighty on integrity, people are bought and sold every day, it is just the price that needs to be haggled. It is the slimeball Predatorts I have issue with, much akin to the latches hanging around the playground with a pocket full of candy. As Chapter 2 showed, the [litigation finance](#) arms provide a steady source of capital for Predatorts to invest in "scientific security." While it is a good strategy to win cases (what's a million dollars when you can reap 289 million?), what this does to the public perception of science and technology is lamentable.

The average fee for a tort-tort is around 500 USD per hour plus per diems. A typical lawsuit would require several days of research, days of meetings and prep, days on the stand and following the case and post-trial followup. Rinse repeat if it goes to appeal as most cases do and you can expect anywhere between 150 to 200 hours or \$75-100K. If there is a Daubert hearing and deposition where a report needs to be researched and written, add at least a further 200 hours (plus a bottle of wine for a naive post-doc). So as someone like Chad Nabhan could get around \$200K per trial and is presently involved in dozens of trials, the temptation to leave a practice and say whatever a lawyer wants him to say is clear. Society has one less oncologist and professor and one more overpriced slimeball. With more than 10,000 glyphosate cases it is a wonder anyone will still be able to be treated for cancer in the US.

**David Zaruk is the Risk-Monger. He has been an EU risk and science communications specialist since 2000. Follow him on Twitter [@Zaruk](#)**

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