

EPA backs Bayer appeal in glyphosate-cancer case, arguing juries shouldn't override expert scientific judgments

The U.S. Environmental Protection Agency is backing the Monsanto Co.'s claim that federal law should have pre-empted a lawsuit alleging its Roundup herbicide causes cancer.

Last year, a jury decided that plaintiff Edwin Hardeman developed non-Hodgkin's lymphoma due to exposure to the chemical, resulting in a \$25 million judgment against Monsanto that the company is now challenging.

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"It actually does violate the EPA regulation as well as the registration determination on the label," said Jonathan Brightbill, an attorney for the agency, during recent oral arguments before the 9th U.S. Circuit Court of Appeals.

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The lawsuit raises the "fundamental question" of whether EPA labeling requirements that are based on "expert scientific judgments" under federal pesticide law can be "overridden by the verdicts of lay juries under state law across a wide array of regulated pesticides."

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Monsanto claims that a federal judge should have thrown out the complaint before a jury could even hear the plaintiff's allegations, which were supported by flawed and unreliable testimony that should have been excluded.

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David Wool, the plaintiff's attorney, countered that the damages were caused by the entire formulation of Roundup, including surfactant chemicals, rather than just the active ingredient glyphosate.

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