

Arthur H. Bryant (SBN 208365)  
BAILEY & GLASSER, LLP  
1999 Harrison Street, Suite 660  
Oakland, CA 94612  
Tel.: (510) 272-8000  
Fax: (510) 436-0291  
E-mail: abryant@baileyglasser.com

Benjamin L. Bailey (*admitted pro hac*)  
BAILEY & GLASSER, LLP  
209 Capitol Street  
Charleston, WV 25301  
Tel: (304) 345-6555  
Fax: (304) 342-1110  
E-mail: bbailey@baileyglasser.com

Joshua I. Hammack (*admitted pro hac*)  
BAILEY & GLASSER, LLP  
1055 Thomas Jefferson Street NW, Suite 540  
Washington, DC 20007  
Tel.: (202) 548-7798  
Fax: (202) 463-2103  
E-mail: jhammack@baileyglasser.com

*Counsel for Amici Curiae*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

IN RE: ROUNDUP PRODUCTS  
LIABILITY LITIGATION

THIS DOCUMENT RELATES TO:

*Ramirez, et al. v. Monsanto Co.,*

Case No. 3:16-md-02741-VC

**NOTICE OF MOTION AND MOTION  
FOR LEAVE TO FILE OPPOSITION  
OF 93 LAW FIRMS AND 167 LAWYERS  
AS *AMICI CURIAE* TO MOTION FOR  
PRELIMINARY APPROVAL OF  
PROPOSED CLASS SETTLEMENT,  
APPOINTMENT OF INTERIM CLASS  
AND SUBCLASS COUNSEL,  
DIRECTION OF NOTICE UNDER FED.  
R. CIV. P. 23(e), SCHEDULING OF A  
FAIRNESS HEARING, AND STAY OF  
THE FILING AND PROSECUTION OF  
ROUNDUP-RELATED ACTIONS BY  
SETTLEMENT CLASS MEMBERS**

The Honorable Vince Chhabria  
Date: March 31, 2021  
Time: 10:00 am  
Courtroom 4 – 17th Floor

NOTICE OF MOTION AND MOTION TO FILE OPPOSITION AMICI CURIAE

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE THAT** 93 law firms and 167 lawyers collectively move the Court for leave to file a brief as *amici curiae* in opposition to the Motion for Preliminary Approval of Proposed Class Action Settlement and related relief in this case. A copy of the proposed *amici curiae* brief is attached to this motion, as is a proposed order. A complete list of law firms seeking to participate as *amici curiae* is attached as Exhibit A to the proposed brief. A complete list of lawyers seeking to participate as *amici curiae* is attached as Exhibit B to the proposed brief. Counsel respectfully requests the opportunity to participate in oral argument regarding the proposed settlement's propriety.

In the absence of specific rules governing *amicus curiae* appearances at the district court level, district courts may look to the rules governing *amicus curiae* participation in appellate courts. *See Baker v. Oregon Mutual Insurance Company*, No. 20-cv-05467-LB, 2021 WL 24841, at \*2 n.7 (N.D. Cal. Jan. 4, 2021) (citing *Levin Richmond Terminal Corp. v. City of Richmond*, No. 20-CV-01609-YGR, 2020 WL 5074263, at \*1 n.1 (N.D. Cal. Aug. 27, 2020)); *Ass'n of Am. Physicians & Surgeons, Inc. v. Brown*, No. 2:16-cv-02441-MCE-EFB, 2017 WL 4351766, at \*2 (E.D. Cal. Sept. 29, 2017) (granting motion for leave to file as *amicus curiae* pursuant to Federal Rule of Appellate Procedure 29).

District courts have wide discretion to grant leave to participate as *amici curiae*. *See, e.g., Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982), *abrogated on other grounds by Sandin v. Conner*, 515 U.S. 472 (1995). As this Court has recognized, “[d]istrict courts frequently welcome *amicus* briefs from non-parties concerning legal issues that have potential ramifications beyond the parties directly involved.” *NGV Gaming, Ltd. v. Upstream Point Molate, LLC*, 355 F. Supp. 2d 1061, 1067 (N.D. Cal. 2005). Here, the views of the proposed *amici curiae* are likely to

assist the Court because this group of law firms and lawyers, and their respective constituent clients, have an overriding and abiding interest in the issues presented. *See, e.g., Funbus Sys., Inc. v. State of Cal. Pub. Utilities Comm'n.*, 801 F.2d 1120, 1125 (9th Cir. 1986) (describing the “classic role” of *amici curiae* as “assisting in a case of general public interest”). In particular, proposed *amici*—all of whom are independent of the parties to this action—have extensive and direct experience with the subjects addressed in their *amici curiae* brief and an overriding interest in promoting access to our civil justice system for all individuals injured as a result of exposure to dangerous, cancer-causing chemicals.

In *amici*'s view, the proposed settlement seriously endangers access to justice for millions of people in the proposed class, would prevent Monsanto's victims from holding it accountable, and would reward Monsanto in numerous respects. While there are many problems with the proposed class action settlement, including that most of the proposed class members cannot adequately be notified of its terms, our *amici curiae* brief, short and to the point, focuses on three of them: (1) the wholesale release of punitive damages, (2) the four-year stay on judicial proceedings, and (3) the secret science panel. Each of these violates core principles of America's system of justice—and requires that preliminary approval of the proposed settlement be denied.

There is, moreover, an additional reason our brief should be considered and the proposed settlement should be rejected. If the proposed class action settlement is approved, there is a very real risk that corporations injuring people nationwide will try to use the approach taken in this settlement as a template for future mass tort and personal injury cases, including toxic tort, medical device, pharmaceutical, and product liability cases. Injury victims' right to seek and obtain justice in our nation's courts could be replaced by private deals worked out between

corporate wrongdoers and their selected class counsel. If America's civil justice system is to be a system of justice, that cannot be how it works.

For these reasons, *amici* respectfully request this Court's leave to submit the attached brief *amici curiae* and to participate in any oral argument over the proposed settlement's propriety.

Dated: March 5, 2021

Respectfully submitted,

/s/ Arthur H. Bryant

Arthur H. Bryant (SBN 208365)  
BAILEY & GLASSER, LLP  
1999 Harrison Street, Suite 660  
Oakland, CA 94612  
Tel.: (510) 272-8000  
Fax: (510) 436-0291  
E-mail: [abryant@baileyglasser.com](mailto:abryant@baileyglasser.com)

Benjamin L. Bailey (*admitted pro hac*)  
BAILEY & GLASSER, LLP  
209 Capitol Street  
Charleston, WV 25301  
Tel: (304) 345-6555  
Fax: (304) 342-1110  
E-mail: [bbailey@baileyglasser.com](mailto:bbailey@baileyglasser.com)

Joshua I. Hammack (*admitted pro hac*)  
BAILEY & GLASSER, LLP  
1055 Thomas Jefferson Street NW, Suite 540  
Washington, DC 20007  
Tel.: (202) 548-7798  
Fax: (202) 463-2103  
E-mail: [jhammack@baileyglasser.com](mailto:jhammack@baileyglasser.com)

*Counsel for Amici Curiae*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 5, 2021, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel of record.

Dated: March 5, 2021

Respectfully submitted,

/s/ Arthur H. Bryant

Arthur H. Bryant (SBN 208365)