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MONSANTO COMPANY

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

IN RE: ROUNDUP PRODUCTS
LIABILITY LITIGATION

MDL No. 2741

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

Cervantes v. Monsanto Co., 3:19-cv-03015-VC
Karman v. Monsanto Co., 3:19-cv-01183-VC
Pecorelli v. Monsanto Co., 3:16-cv-06936-VC
Peterson v. Monsanto Co., 3:18-cv-07271-VC
Rehak v. Monsanto Co., 3:19-cv-01719-VC
Schafer v. Monsanto Co., 3:19-cv-02169
Seidl v. Monsanto Co., 3:17-cv-00519-VC

**DEFENDANT MONSANTO
COMPANY'S NOTICE OF
MOTION AND MOTION TO
EXCLUDE TESTIMONY OF
PLAINTIFFS' EXPERTS BARRY
BOYD, LAUREN PINTER-
BROWN, AND RON SCHIFF ON
RULE 702 GROUNDS**

Hearing date: May 28, 2021
Time:

1 **TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE THAT** beginning on May 28, 2021, in Courtroom 4 of the United States
3 District Court, Northern District of California, located at 450 Golden Gate Avenue, San Francisco,
4 CA 94102, or as ordered by the Court, Defendant Monsanto Company (“Monsanto”) will present its
5 Motion to Exclude Testimony of Barry Boyd, Lauren Pinter-Brown, and Ron Schiff. Monsanto seeks
6 an order excluding opinion of this witness under Federal Rule of Evidence 702 and *Daubert v. Merrell*
7 *Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993).

8
9 DATED: March 19, 2021

10 Respectfully submitted,

11 */s/ Michael X. Imbroscio*

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INTRODUCTION 1

BACKGROUND 2

I. Wave Two Plaintiffs Have Disclosed a Handful of Specific Causation Experts for Whom the Court Has Not Previously Ruled. 2

II. The Wave Two Plaintiffs All Had Risk Factors Associated with NHL. 3

III. Plaintiffs’ Experts All Purport to Use a Differential “Etiology” in Forming Their Specific Causation Opinions. 6

LEGAL STANDARD 7

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INTRODUCTION

1
2 The Wave 2 Plaintiffs have designated an array of new specific causation experts that do not
3 meet the standards of Rule 702 this Court imposed in Pre-Trial Order 85 (“PTO 85”). While
4 purporting to rely on the same differential etiology/diagnosis methodology the Court previously
5 permitted, these experts in fact fall woefully short of the first round of experts, which this Court
6 bluntly described to have “barely inched over the line” in opining that Roundup®-branded products
7 (“Roundup”) specifically caused the plaintiffs’ non-Hodgkin’s lymphoma (NHL). In striking
8 manner, each of these new experts is nakedly outcome-driven. To be sure, they continue to “rule in”
9 Roundup based on the same flawed studies the general causation experts rely on without accounting
10 for the Plaintiffs’ specific NHL sub-types. But even setting that deficiency aside, they do their real
11 methodological violence in their consideration of other potential risk factors. In their unwavering
12 adherence to their conclusion that Roundup is always to blame, they offer no coherent, defensible
13 principle undergirding their specific causation opinions, ultimately acknowledging that they cannot
14 rule out many significant risk factors and instead simply professing no obligation to do so.

15 The mere invocation of the phrase “differential etiology” or “differential diagnosis” cannot
16 sanitize what is otherwise an outcome-driven conclusion devoid of any reliable scientific basis. These
17 experts repeatedly failed to reliably account for *known* risk factors for NHL that other plaintiffs’
18 experts admit are well-accepted risk factors, and they at the same time casually ignore the potential
19 that unknown factors, which account for most NHL cases, might explain the plaintiff’s NHL.

20 And unlike the experts the Court previously addressed, these experts fully admit they have no
21 reliable scientific method to weigh causes against one another—the very subject on which their
22 testimony will purportedly assist a jury under Rule 702. The bottom line for these witnesses is that
23 Roundup will always be the cause of every plaintiff’s NHL as long as the plaintiff was exposed to
24 some amount of Roundup at some point in their life—regardless of the plaintiff’s individual medical
25 history and risk factors, regardless of the fact that the cause of NHL cannot be determined in the vast
26 majority of cases, and regardless of when or how much a plaintiff allegedly used Roundup. That is
27 not science—that is courtroom advocacy in a lab coat. This Court has previously described the
28 “daunting challenge” of establishing specific causation in these cases. These new experts do not meet

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