

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI**

National Black Farmers Association

Plaintiffs,

v.

Monsanto Company

Defendants.

JURY TRIAL DEMANDED

Case No.

COMPLAINT

COMPLAINT

COMES NOW Plaintiff National Black Farmers Association (“NBFA”), on behalf of its members, against Defendant Monsanto Company (“Monsanto”), alleging the following upon information and belief, except those allegations that pertain to NBFA and its members, which are based on personal knowledge:

INTRODUCTION

Monsanto’s Roundup® is a prevalent and yet highly dangerous product. Although it has long been marketed as an entirely safe herbicide whose main benefit is that it can be indiscriminately sprayed on fields planted with Monsanto’s “Roundup Ready” seeds, we now know that using Roundup® and its active ingredient, glyphosate, in this way causes cancer—including Non-Hodgkin’s Lymphoma (“NHL”), Hodgkin’s Lymphoma, Lymphoma, Multiple Myeloma and/or Leukemia. Bellwether plaintiffs have already litigated and prevailed on precisely such claims; other deserving plaintiffs are waiting to sue for their own damages; and certain class-action attorneys have already attempted to settle such claims, purporting to act on behalf of *all* other injured farmers. But conspicuously absent from these damages actions and purported settlements is any effort to get Roundup® off the shelf and protect farmers from the harm that it causes. The NBFA thus brings this action on behalf of its members, seeking an injunction that

will either require Monsanto to stop selling its dangerous product, or else substantially change its behavior so that Black farmers are adequately warned about and protected from the potentially fatal results of using Roundup® in just the way that Monsanto has told (or, really, forced) them to do.

NBFA is perfectly suited to litigate this action for injunctive relief. A huge proportion of NBFA's members have been exposed to and potentially injured by Roundup®. And until now, those members did not know of any association between exposure to Roundup® and an increased risk of developing these listed above, even well after the International Agency for Research on Cancer, an agency of the World Health Organization, first published its evaluation of glyphosate. That is because Monsanto has waged a campaign of misinformation espousing the safety of Roundup® even as it knew there was evidence to the contrary. And because NBFA is an on-ground farm organization—that is in fact run entirely by Black farmers—they are only too familiar with how Monsanto has misled its members, and what it would take to stop its harms from continuing to propagate.

Indeed, the harms caused by Roundup® are felt acutely by NBFA's members: largely rural Black farmers who frequently have limited internet connectivity and/or literacy, and are dependent on their local seed stores for product and information. Utterly unaware of the danger, these farmers have been all-but forced into purchasing Monsanto's Roundup Ready® seeds and thus Roundup® products containing glyphosate by Monsanto's aggressive business practices. Over the course of the last several decades, Monsanto has purchased local, conventional seed sellers and then removed their products from the market, making its own "Roundup Ready®" seeds the only option available to rural Black farmers. And to justify the huge, annual financial investment required to

buy Roundup Ready® seeds, these farmers were forced in turn into purchasing and using Roundup® herbicides containing glyphosate.

Compounding the issue, weeds have naturally become more resistant to Roundup® over the course of the last few decades as well, and now require the application of multiple chemicals (including dangerous chemicals like 2,4-D, a component of Agent Orange) to ensure the same yield. However, Defendant did not provide the safety training necessary to use these products, meaning that Black farmers have, for decades, been exposed to dangerous chemicals that are becoming more and more dangerous with time. At the same time, Roundup Ready® seeds are more expensive than conventional seeds, and must be replanted annually, whereas conventional seeds can be reused multiple times. This creates even further exposure to the dangerous chemicals sold by Monsanto and its parent company Bayer—again, all without proper safety training.

In short, Monsanto has created a vicious cycle in which rural Black farmers have been forced into using Roundup Ready® seeds developed by Defendant, which require the use of dangerous chemicals without warnings—including glyphosate-containing Roundup® products—that must then be made even stronger (and more dangerous) over time. Having bred super-weeds by using Monsanto's products and lost access to affordable conventional seed—and uniquely deprived of the resources to adopt alternative practices by decades of outright and structural racism in the administration of farm programs—NBFA's members only end up exposing themselves to more and more carcinogens like glyphosate, and that leads, in turn, to lethal cancers that only begin to cause symptoms decades after exposure. The only way to break this cycle is to force Monsanto to stop selling its carcinogenic product. And that requires the injunctive relief that NBFA has brought this action to pursue.

I. THE PARTIES

Plaintiff NBFA

1. The National Black Farmers Association is a non-profit association that represents Black and minority farmers on various issues, including, “civil rights, land retention, access to public and private loans, education and agricultural training, and rural economic development.” The association has a long history, going back to 1995, of challenging discriminatory conduct by the U.S. Department of Agriculture and of pursuing litigation to that end on behalf of its members. Accordingly, NBFA’s efforts have been pivotal in pushing Congress to pass legislation compensating Black farmers for past harms.¹

2. NBFA was founded in 1995 by John W. Boyd, Jr., a fourth-generation Black farmer from Baskerville, Virginia, in the wake of repeated instances of discrimination.² Since then, NBFA has been at the forefront of challenging discriminatory conduct by the U.S. Department of Agriculture. *See supra* note 1. Indeed, its claims of discriminatory loan and subsidy distribution have now been acknowledged by the USDA. *Id.* Black farmers—who are just as deserving of government assistance as white farmers—have been denied access because of their race. And the denial of aid has led to sweeping bankruptcies and foreclosures among Black farmers, with structural effects that continue to this day.³

¹ *See* Nat’l Black Farmers Assoc., https://www.nationalblackfarmersassociation.org/about_us (last visited Aug. 22, 2020).

² *See* Summer Sewell, *There Were Nearly a Million Black Farmers in 1920. Why Have They Disappeared?*, *The Guardian* (Apr. 29, 2019), <https://www.theguardian.com/environment/2019/apr/29/why-have-americas-black-farmers-disappeared>.

³ *See* Congressional testimony of John W. Boyd, Jr., Founder and President, NBFA, *available at* <https://www.congress.gov/116/meeting/house/109679/witnesses/HHRG-116-BA10-Wstate-BoydJ-20190619-U1.pdf>.

3. Following a successful fight to redress the historic discrimination against Black farmers, which culminated in congressional legislation in 2010, the NBFA continues today to advocate for Black farmers and fight discrimination to ensure that its members receive the same aid and credit that white farmers do. The most recent example is NBFA's effort to get farmers relief following the administration's trade tariffs. *See supra* note 3. The organization also facilitates educational events for its members, helping them to navigate suits and settlements. *See supra* note 1.

4. NBFA's members include "full-time farmers, part-time farmers, land and timber owners and many concerned citizens." *See supra* note 3. The NBFA is comprised of over 100,000 members across 42 states. *See id.* Over the past century, Black farm ownership has seen startling declines. Studies show that the number of farms operated by Black farmers has been dramatically reduced, from nearly one million in 1920 to less than fifty-thousand in 2012. *See supra* note 1. Today, only about 1.3% of the country's farmers are Black, and they own a mere 0.52% of America's farmland. *See supra* note 2. Scholars attribute this decline in part to rampant discrimination.⁴ While USDA has calculated a recent uptick in the number of Black farmers, such numbers do not eliminate years of discriminatory treatment nor obviate continued discrimination today. *See id.* Further, the accuracy of these increases has been disputed.⁵

⁴ *See, e.g.*, Pete Daniel, *Dispossession: Discrimination Against African American Famers in the Age of Civil Rights* (2015); Zoe Willingham, *Progressive Governance Can Turn the Tide for Black Famers*, Ctr. for Am. Progress (Apr. 3, 2019), <https://www.americanprogress.org/issues/economy/reports/2019/04/03/467892/progressive-governance-can-turn-tide-black-farmers/>.

⁵ Nathan Rosenberg & Bryce Wilson Stucki, *How USDA Distorted Data to Conceal Decades of Discrimination Against Black Farmers*, The Counter (June 26, 2019), <https://thecounter.org/usda-black-farmers-discrimination-tom-vilsack-reparations-civil-rights/>.

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