

# EXHIBIT 1-B

CAUSE NO. \_\_\_\_\_

JOHN LUBY, JR.	)	IN THE DISTRICT COURT OF
	)	
	)	
v.	)	
	)	NUECES COUNTY, TEXAS
	)	
NAYLOR’S FARM & RANCH	)	
SUPPLY, INC.	)	_____ JUDICIAL DISTRICT

**PLAINTIFF’S ORIGINAL PETITION**

COMES NOW the Plaintiff, JOHN LUBY, JR., and brings this action against Defendant, Naylor’s Farm & Ranch Supply, Inc., as follows:

**INTRODUCTION**

Plaintiff brings this cause of action against Defendant for injuries sustained as a result of using Monsanto Company’s unreasonably dangerous and defective product, Roundup®. More specifically, Plaintiff’s claims involve Defendant’s negligent and wrongful conduct in connection with the promoting, marketing, advertising, distribution, and/or sale of Roundup® and/or other Monsanto Company glyphosate-containing products (“Roundup” or “Roundup®”). As a direct and proximate result of his exposure to Roundup® and its active ingredient, glyphosate, Plaintiff developed non-Hodgkin’s Lymphoma.

**THE PARTIES**

**Plaintiff**

1. Plaintiff JOHN LUBY, JR. is a resident of Corpus Christi, Nueces County, Texas. Plaintiff John Luby, Jr. purchased Roundup® from Defendant Naylor’s Farm & Ranch Supply, Inc. and used Roundup® in Texas between approximately 1991 and 2018 for personal and/or work related purposes and subsequently was diagnosed with non-Hodgkin’s Lymphoma.

Plaintiff used Roundup® as directed at all relevant times.

**Defendant**

2. Defendant Naylor’s Farm & Ranch Supply, Inc. is a Texas corporation authorized to do business in the State of Texas with its headquarters and principal place of business in Nueces County, Texas. Defendant may be served with citation herein by serving its registered agent for service, Melvin Earl Kronk at 5805 Academy, Corpus Christi, TX 78407.

3. At all times relevant to this Petition, Naylor’s Farm & Ranch Supply, Inc. distributed, sold, marketed, promoted and/or advertised Roundup®.

**DISCOVERY CONTROL PLAN**

4. Pursuant to Rule 190 of the Texas Rules of Civil Procedure, discovery for this cause is intended to be conducted under Level 2.

**NATURE OF THE ACTION**

5. In 1970, Monsanto Company discovered the herbicidal properties of glyphosate and in 1974 began marketing it in products under the brand name Roundup®. Roundup® is a non-selective herbicide used to kill weeds that commonly compete with the growing of crops. By 2001, glyphosate had become the most-used active ingredient in American agriculture with 85–90 million pounds used annually. That number grew to 185 million pounds by 2007. As of 2013, glyphosate was the world’s most widely used herbicide.

6. Monsanto is a multinational agricultural biotechnology corporation based in St. Louis, Missouri. It is the world’s leading producer of glyphosate.

7. Monsanto’s glyphosate products are registered in 130 countries and approved for use on over 100 different crops. They are ubiquitous in the environment. Numerous studies confirm that glyphosate is found in rivers, streams, and groundwater in agricultural areas where

Roundup® is used. It has been found in food, in the urine of agricultural workers, and even in the urine of urban dwellers who are not in direct contact with glyphosate.

8. On March 20, 2015, the International Agency for Research on Cancer (“IARC”), an agency of the World Health Organization (“WHO”), issued an evaluation of several herbicides, including glyphosate. That evaluation was based, in part, on studies of exposures to glyphosate in several countries around the world, and it traces the health implications from exposure to glyphosate since 2001.

9. On July 29, 2015, IARC issued the formal monograph relating to glyphosate. In that monograph, the IARC Working Group provides a thorough review of the numerous studies and data relating to glyphosate exposure in humans.

10. The IARC Working Group classified glyphosate as a Group 2A herbicide, which means that it is probably carcinogenic to humans. The IARC Working Group concluded that the cancers most associated with glyphosate exposure are non-Hodgkin lymphoma and other hematopoietic cancers, including lymphocytic lymphoma/chronic lymphocytic leukemia, B-cell lymphoma, and multiple myeloma. The IARC evaluation is significant as it confirms that glyphosate is toxic to humans.

### **JURISDICTION AND VENUE**

11. All at relevant hereto, Naylor’s Farm & Ranch Supply, Inc engaged in the business of distributing, selling, promoting and/or advertising Roundup® products in the State of Texas and the County of Nueces.

12. Jurisdiction is proper in this Court because (1) Plaintiff does not allege any violation of federal law; (2) the parties are not completely diverse in citizenship; and (3) Defendant did and is doing business within the State of Texas and committed a tort in whole or in part in this state

against the Plaintiff, as more fully set forth herein. The damages suffered and sought to be recovered herein exceed the minimum jurisdictional limits of this Court.

13. Venue is proper in Nueces County, Texas pursuant to Texas Civil Practice & Remedies Code, Chapter 15, §15.002(a)(1) and (a)(3), and §15.005 in that the Defendant, Naylor's Farm & Ranch Supply, Inc., is a resident of and/or has its principal place of business in Nueces County, Texas.

### **FACTS**

14. Glyphosate is a broad-spectrum, non-selective herbicide used in a wide variety of herbicidal products around the world.

15. Plants treated with glyphosate translocate the systemic herbicide to their roots, shoot regions and fruit, where it interferes with the plant's ability to form aromatic amino acids necessary for protein synthesis. Treated plants generally die within two to three days. Because plants absorb glyphosate, it cannot be completely removed by washing or peeling produce or by milling, baking, or brewing grains.

16. For nearly 40 years, farms across the world have used Roundup® without knowing of the dangers its use poses. According to the WHO, the main chemical ingredient of Roundup®—glyphosate—is a probable cause of cancer. Those most at risk are farm workers and other individuals with workplace exposure to Roundup®, such as workers in garden centers, nurseries, and landscapers. The first glyphosate-based herbicide was introduced to the market in the mid- 1970s under the brand name Roundup®.

17. The manufacture, formulation and distribution of herbicides, such as Roundup®, are regulated under the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA" or "Act"), 7 U.S.C. § 136 et seq. FIFRA requires that all pesticides be registered with the Environmental

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