

Judge to slash \$2 billion award for couple with cancer in Roundup lawsuit

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Roundup weed killer is at the center of hundreds of lawsuits in the United States. (Daniel Acker/Bloomberg)

A California judge will slash a \$2 billion judgment against Bayer AG, which had been awarded to a couple who both developed cancer after decades of using Roundup to kill weeds.

The damages award announced in May marked the largest to date in the litany of lawsuits tying the top-selling herbicide to non-Hodgkin's lymphoma. But in a tentative ruling late Thursday, Alameda County Superior Court Judge Winifred Y. Smith said the \$2 billion exceeded legal precedent and that she was considering an award closer to \$250 million. If the parties can't agree on a new amount during a Friday hearing, the case would go to a retrial.

“The court’s tentative order proposes changes in the damage awards, which would be a step in the right direction,” Bayer said in a statement to Reuters. “Bayer will wait for a final order on the post-trial motions before commenting in further detail.”

A reduction in damages will do little to alleviate the legal crisis for Bayer, which is known for such pharmacy aisle products as aspirin and Alka-Seltzer. When it acquired Monsanto for \$63 billion in June to create the world's largest seed and agrochemical company, it also inherited the company's Roundup brand and a mountain of lawsuits; more than 13,000 have been filed in the United States.

Bayer categorically denies Roundup and its active ingredient, glyphosate, cause cancer, and maintains that both are safe for human use. Since the Monsanto acquisition, Bayer's value has fallen roughly 45 percent.

Alva and Alberta Pilliod, who are in their mid-70s, had been using Roundup for decades by the time Alva was diagnosed with non-Hodgkin lymphoma in his bones in 2011. Four years later, Alberta was diagnosed with non-Hodgkin lymphoma brain cancer. The couple estimated they used a gallon of the weed killer a week on four residential properties over the course of 30 years, without using protective clothing or face shields.

In his final argument, the couple's attorney, R. Brent Wisner, urged the jury to levy \$1 billion in punitive damages for misleading and endangering the public.

"They can afford it, and they need to pay," Wisner told the jury. "That's the kind of number that sends a message to every single boardroom, every single stockholder, every single person in Monsanto that can make a decision about the future. That is a number that changes things."

On May 13, jurors awarded the couple \$55 million in compensatory damages and \$2 billion in punitive damages. Experts assumed the award would be reduced, given U.S. Supreme Court rulings that cap the ratio of punitive to compensatory damages at 9-to-1.

The verdict followed an \$80 million judgment in March to a California man who said Roundup gave him non-Hodgkin's lymphoma. And last August, in the first U.S. Roundup trial, a California jury awarded \$289 million to a former groundskeeper who blamed the herbicide for his terminal cancer. A judge later reduced that amount to \$78 million, and the verdict is being appealed.

The Environmental Protection Agency, meanwhile, concluded in April that it continues to find "no risks to public health when glyphosate is used in accordance with its current label" and that "glyphosate is not a carcinogen."

The federal agency acknowledged the ecological risks associated with glyphosate and proposed certain measures aimed at helping farmers better target its application. But it said its findings on the human health risks of the compound "are consistent with the conclusions of science reviews by many other countries and other federal agencies."

"If we are going to feed 10 billion people by 2050, we are going to need all the tools at our disposal, which includes the use the glyphosate," Agriculture Secretary Sonny Perdue said in a statement about the EPA's decision. "USDA applauds EPA's proposed registration decision as it is science-based and consistent with the findings of other regulatory authorities that glyphosate does not pose a carcinogenic hazard to humans."

But the EPA's decision clashes with guidance from other leading organizations and existing research. In 2015, the World Health Organization's International Agency for Research on Cancer said glyphosate is "probably carcinogenic to humans." And earlier this year, researchers at the University of Washington who analyzed all published studies on the impact of glyphosate on humans concluded exposure to Roundup raised cancer risks by 41 percent.