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**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.
3:19-cv-02224

MDL NO. 2741

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

**SUPPLEMENTAL BRIEF OF 93 LAW
FIRMS AND 167 LAWYERS AS *AMICI
CURIAE* IN OPPOSITION TO
AMENDED PROPOSED SETTLEMENT
AGREEMENT**

The Honorable Vince Chhabria

Date: May 19, 2021

Time: 10:00 am

Courtroom 4 – 17th Floor

This Supplemental Brief is filed in response to plaintiffs’ reply brief, the amended proposed settlement agreement, the revised class notice, and the revised legal services program by the 93 law firms and 167 lawyers who previously filed the Notice of Motion, Motion for Leave to File, and Opposition of 93 Law Firms and 167 Lawyers as *Amici Curiae* to Motion for Preliminary Approval of Proposed Class Settlement. Dkt. Nos. 12700 & 12700-1. Counsel respectfully continues to request the opportunity to participate in oral argument regarding the now-amended proposed settlement’s preliminary approval. Additionally, counsel for Lisa Blue, individually, as President of the National Trial Lawyers, and on behalf of its 14,000 members, who joined in our Initial Motion and Opposition as *Amici Curiae*, has authorized us to inform the Court that she and they join in this Supplemental Brief and continue to oppose the now-amended proposed class action settlement.

Plaintiffs’ Reply in Support of Motion for Preliminary Approval of the amended proposed class action settlement (“Plaintiffs’ Reply Brief”) begins by saying, “This settlement will save lives.” Dkt. No. 12911 at 11. In fact, this settlement will kill people. It will allow Monsanto to keep manufacturing and selling deadly Roundup products, lie to the public about the horrifying fatal disease they cause, avoid paying punitive damages to all of the class members (including those exposed in the future), and be able to calculate the relatively small amount it will have to pay each of its future victims as a cost of doing business while it continues this course of conduct as long as it likes. No class action settlement has ever done anything like that. No class action settlement ever should.

Indeed, in all of the class actions settlements relied on in Plaintiffs’ Reply Brief, such as *In re Diet Drugs*, the defendant’s injurious conduct had stopped. 369 F.3d 293, 298 (3d Cir. 2004) (noting that the drugs at issue had been removed from the market in 1997, before almost any of

the lawsuits had been filed and before any settlement discussions occurred); 282 F.3d 220, 225 (3d Cir. 2002) (same). Here, the proposed settlement would both allow and *help* Monsanto to continue its injurious conduct forever—and severely limit its liability and damages in the meantime.

Our initial Motion for Leave to File Opposition of 93 Law Firms and 167 Lawyers as *Amici Curiae* to Motion for Preliminary Approval (“Initial Motion”) noted that there were many problems with the proposed settlement, including that most of the proposed class members cannot adequately be notified of its terms, and said that our *amici curiae* brief “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.” Dkt. No. 12700 at 2; *see generally* Dkt. No. 12700-1. It also advanced an additional reason 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.

Dkt. No. 12700 at 2–3.

Monsanto and class counsel have now amended the proposed settlement agreement, but (1) the wholesale release of punitive damages, (2) the four-year stay on judicial proceedings, and (3) the secret science panel remain. So does the impossibility of adequately notifying most of the proposed class members. The amendments related to these central defects are insignificant and do not qualify the proposed settlement for preliminary approval. Nor do they decrease the danger the proposed settlement poses to the class members—and our system of justice.

Our Initial Motion said: “[T]he 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.” Dkt. No. 12700 at 2. Nothing has changed.

We, therefore, respectfully continue to submit that this Court should deny preliminary approval of this now four-times-repackaged proposed class action settlement. No class action settlement like this one should ever be approved.

Dated: April 30, 2021

Respectfully submitted,

/s/ Arthur H. Bryant

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