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FILED
San Francisco County Superior Court

NOV 23 2020

CLERK OF THE COURT

BY: *Margaret Apologos*
Deputy Clerk

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO**

DEWAYNE JOHNSON,

Plaintiff,

v.

MONSANTO COMPANY,

Defendant.

Case No. CGC-16-550128

~~PROPOSED~~ AMENDED JUDGMENT ON
JURY VERDICT

Honorable Suzanne R. Bolanos

Trial Date: June 18, 2018

Department: 504

This case came on for trial in the above entitled matter on June 18, 2018 in Department 504 of the Superior Court of California, in and for the County of San Francisco, before the Honorable Suzanne R. Bolanos, Judge presiding. Plaintiff Dewayne Lee Johnson appeared by attorneys David Dickens of the Miller Firm LLC; R. Brent Wisner of Baum, Hedlund, Aristei & Goldman, PC; and Mark Burton of Audet and Partners, LLP. Defendant Monsanto Company appeared by attorneys George C. Lombardi of Winston & Strawn LLP; Kirby T. Griffis of Hollingsworth, LLP; and Sandra A. Edwards of Farella, Braun & Martel, LLP.

~~Proposed~~ Amended Judgment on Jury Verdict

1 A jury of 12 persons was regularly impaneled and sworn. Witnesses were sworn and
2 testified. Following the hearing of all evidence, instructions from the court, and argument of all
3 counsel, the cause was submitted to the jury. The jury deliberated and thereafter, on August 10,
4 2018, returned its verdict as follows:

5
6 **CLAIM OF DESIGN DEFECT**

- 7 1. Are the Roundup Pro® or Ranger Pro® products ones about which an ordinary consumer
8 can form reasonable minimum safety expectations?

9 Yes

10 ☒

No

11 ☐

12 If your answer to question 1 is yes, then answer question 2. If you answered no, proceed
13 to question 4.

- 14
15 2. Did Roundup Pro® or Ranger Pro® fail to perform as safely as an ordinary consumer
16 would have expected when used or misused in an intended or reasonably foreseeable
17 way?

18 Yes

19 ☒

No

20 ☐

21 If your answer to question 2 is yes, then answer question 3. If you answered no, proceed
22 to question 4.

- 23 3. Was the Roundup Pro® or Ranger Pro® design a substantial factor in causing harm to
24 Mr. Johnson?

25 Yes

26 ☒

No

27 ☐

28 Answer question 4.

~~[Proposed]~~ Amended Judgment on Jury Verdict

CLAIM OF STRICT LIABILITY—FAILURE TO WARN

4. Did Roundup Pro® or Ranger Pro® have potential risks that were known or knowable in light of the scientific knowledge that was generally accepted in the scientific community at the time of their manufacture, distribution or sale?

Yes

☒

No

☐

If your answer to question 4 is yes, then answer question 5. If you answered no, proceed to question 9.

5. Did the potential risks of Roundup Pro® or Ranger Pro® present a substantial danger to persons using or misusing Roundup Pro® or Ranger Pro® in an intended or reasonably foreseeable way?

Yes

☒

No

☐

If your answer to question 5 is yes, then answer question 6. If you answered no, proceed to question 9.

6. Would ordinary consumers have recognized the potential risks?

Yes

☐

No

☒

If your answer to question 6 is no, then answer question 7. If you answered yes, proceed to question 9.

~~Proposed~~ Amended Judgment on Jury Verdict

1 7. Did Monsanto fail to adequately warn of the potential risks?

2 Yes

No

3 ☒

☐

4
5 If your answer to question 7 is yes, then answer question 8. If you answered no, proceed to question 9.

6 8. Was the lack of sufficient warnings a substantial factor in causing harm to Mr. Johnson?

7
8 Yes

No

9 ☒

☐

10
11 Go to question 9.

12 **CLAIM OF NEGLIGENT FAILURE TO WARN**

13
14 9. Did Monsanto know or should it reasonably have known that Roundup Pro® or Ranger Pro® were dangerous or were likely to be dangerous when used or misused in a reasonably foreseeable manner?

15
16 Yes

No

17 ☒

☐

18
19 If your answer to question 9 is yes, then answer question 10. If you answered no, proceed to question 14.

20
21 10. Did Monsanto know or should it reasonably have known that users would not realize the danger?

22
23 Yes

No

24 ☒

☐

25
26 If your answer to question 10 is yes, then answer question 11. If you answered no, proceed to question 14.

27
28 ~~{Proposed}~~ Amended Judgment on Jury Verdict

1 11. Did Monsanto fail to adequately warn of the danger or instruct on the safe use of
2 Roundup Pro® or Ranger Pro®?

3 Yes

4 ☒

No

☐

5 If your answer to question 11 is yes, then answer question 12. If you answered no,
6 proceed to question 14.

7
8 12. Would a reasonable manufacturer, distributor, or seller under the same or similar
9 circumstances have warned of the danger or instructed on the safe use of Roundup Pro®
or Ranger Pro®?

10 Yes

11 ☒

No

12 ☐

13
14 If your answer to question 12 is yes, then answer question 13. If you answered no,
15 proceed to question 14.

16
17
18 13. Was Monsanto's failure to warn a substantial factor in causing harm to Mr. Johnson?

19 Yes

20 ☒

No

21 ☐

22
23 Proceed to question 14.

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[Proposed] Amended Judgment on Jury Verdict

CLAIM OF DAMAGES

If you answered yes to question 3, 8, or 13, then answer the questions below about damages. If you did not answer or answered no to question 3, 8, and 13, stop here, answer no further questions, and have the presiding juror sign and date this form.

14. What are Mr. Johnson's damages?

Past economic loss: \$ 819,882.32

Future economic loss: \$ 1,433,327.00

Past noneconomic loss: \$ 4,000,000.00

Future noneconomic loss: \$ 33,000,000.00

PUNITIVE DAMAGES

15. Did you find by clear and convincing evidence that Monsanto acted with malice or oppression in the conduct upon which you base your finding of liability in favor of Mr. Johnson?

Yes

☒

No

☐

If your answer to question 15 is yes, then answer question 16. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

16. Was the conduct constituting malice or oppression committed, ratified, or authorized by one or more officers, directors, or managing agents of Monsanto acting on behalf of Monsanto?

Yes

☒

No

☐

~~[Proposed]~~ Amended Judgment on Jury Verdict

1 If your answer(s) to question 16 is yes, then proceed to question 17. If you answered no
2 as to question 16, stop here, answer no further questions, and have the presiding juror
3 sign and date this form.

4 17. What amount of punitive damages, if any, do you award to Mr. Johnson?

5
6 \$ 250,000,000.00

7 Signed: 
8 Presiding Juror

9 Dated: August 10, 2018

10 On October 22, 2018, the Court issued an order conditionally denying Defendant's
11 Motion for a New Trial provided that Plaintiff accept a remittitur of the punitive damage award
12 to \$39,253,209.35 pursuant to CCP § 662.5. On October 26, 2018, the Plaintiff filed a notice of
13 acceptance of the remittitur, further noting that he was not waiving his right to appeal should the
14 Defendant file an appeal of the Court's October 22, 2018 order. On January 7, 2019, based on a
15 joint stipulation between the parties, the court ordered that Johnson is entitled to recover
16 \$519,772.18 in costs. On July 21, 2020, the First Appellate Court of Appeal reduced the award
17 of compensatory damages to \$10,253,209.32 and reduced the award of punitive damages to
18 \$10,253,209.32. The parties unsuccessfully filed Petitions for Review to the California Supreme
19 Court and on November 2, 2020 the Court of Appeal issued its remittitur remanding the action to
20 the Superior Court.

21
22 It appearing by reason of said verdict that Plaintiff Dewayne Lee Johnson is entitled to
23 judgment against Defendant Monsanto Company;

24 NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that:

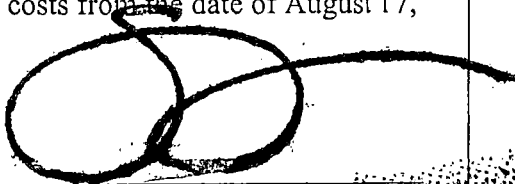
25 Plaintiff Dewayne Lee Johnson shall have judgment entered against Defendant Monsanto
26 Company in the amount of twenty-one million twenty-six thousand one hundred ninety dollars
27 and eighty-two cents (\$21,026,190.82).
28

~~[Proposed]~~ Amended Judgment on Jury Verdict

1 Interest of 10% per annum shall accrue on the amount of compensatory damages from the
2 date of April 12, 2018 until the Judgment plus accrued interest is satisfied. Interest of 10% per
3 annum shall accrue on the amount of punitive damages and costs from the date of August 17,
4 2018 until the judgment plus accrued interest is satisfied.

5 NOV 23 2020

6 Dated: November _____, 2020


Hon. Suzanne R. Bolanos
Judge of the Superior Court

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[Proposed] Amended Judgment on Jury Verdict