



SBAITI & COMPANY

A New Jersey Limited Liability Company



VIA HAND DELIVERY

February 27, 2025

Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director
Administrative Office of the Courts
of the State of New Jersey
Richard J. Hughes Justice Complex
25 Market St.
Trenton, New Jersey 08625

Re: Request for Multi-County Litigation Designation of Roundup Cases

Dear Judge Grant:

Please accept this letter on behalf of Plaintiffs in 36 matters who now seek designation of their cases and those of five other plaintiffs—41 cases in total—currently filed in courts across eight different New Jersey vicinages, for centralized management in The Superior Court of New Jersey, Atlantic County vicinage before the Honorable John C. Porto, P.J.Cv.¹ Plaintiffs make this renewed request pursuant to R. 4:38A and codified thereunder in Directive 02-19: Multicounty Litigation Guidelines and Criteria for Designation (“Guidelines”).²

When Plaintiffs originally made their request on January 22, 2024, there were only 10 Plaintiffs with cases filed in only four counties. After considering the prior application, the Supreme Court denied Plaintiffs’ request, specifying that “[t]he Court based its denial on the limited number of cases at present.” Letter from Acting Administrative Director of the Courts (May 28, 2024), attached hereto as Exhibit B. The Supreme Court further advised that “[t]he application may be resubmitted if the total number of plaintiffs increases.” *Id.* The number of plaintiffs has since quadrupled and, as evidenced by the multiplication of such cases without centralization, Plaintiffs anticipate that the total number of cases subject to this Court’s petition order, if granted, will likely exceed one hundred.

As set forth herein, centralized management is consistent with the Guidelines for several reasons. Chiefly, it will allow for the conservation of judicial resources and will curtail, if not eliminate, duplicative and inconsistent rulings that are inevitable if Plaintiffs’ cases remain before various courts

¹ An updated list of currently pending cases is attached hereto as Exhibit A. This list includes six cases that were dismissed for administrative deficiencies, at least four of which are in the process of reinstatement.

² Per the Guidelines, Plaintiffs will provide the required notice of this petition for centralized management to all parties. Further, Plaintiffs move that if this petition is granted, the Court also orders that all subsequent related actions currently filed in counties other than the vicinage chosen by the Court be transferred without further application. Guidelines, ¶ 4.

throughout the state. Indeed, over the past several months, multiple judges across New Jersey's courts have ruled on virtually identical motions to dismiss involving substantially similar issues of fact and law in well over a dozen separate cases. Absent centralization, disaggregated and inconsistent rulings will continue, and at the expense of judicial resources. Centralization will also allow for coordinated discovery, which is particularly advantageous where, as here, Plaintiffs' cases involve claims with common issues of law and fact involving a single product, Roundup; a high degree of commonality of injury or damages; and little to no risk that centralization will cause delay or prejudice. In short, centralization is fair and convenient to all parties, counsel, and witnesses, and this petition should be approved.

I. Summary of the Case

Plaintiffs are over 20 New Jersey residents and over a dozen non-New Jersey residents who have filed civil actions for injuries caused by their exposures to Roundup over a period of years at work, at their residences, or both.³ Each Plaintiff claims injuries under the New Jersey Products Liability Act, *N.J.S.A. §2A:58C-1 et seq.* ("NJPLA"), the New Jersey Punitive Damages Act, *N.J.S.A. 2A: 15-59, et seq.*, and the common law of the State of New Jersey, and several Plaintiffs also assert claims under the New Jersey Consumer Fraud Act, *N.J.S.A. §56:8-1, et seq.* ("NJCFA"). Specifically, they assert claims for grievous injuries as a direct and proximate result of their aforementioned exposures to Roundup, including their diagnosis of Non-Hodgkin's Lymphoma ("NHL").

Defendant Monsanto Company is now fully owned by Defendant Bayer Corporation ("Bayer Corp."). Bayer Corp., a/k/a Bayer, USA, is a wholly-owned subsidiary of Defendant Bayer AG. Bayer Corp. runs national operations for Bayer AG and oversees approximately forty consolidated subsidiary companies within the United States, including Defendants Monsanto Company, Bayer CropScience LP, and Bayer U.S. LLC. The Bayer entities are collectively referred to as the "Bayer Defendants." Plaintiffs also bring claims against fifty John Doe or fictitiously-named defendants whose identities are not presently known.⁴

All Defendants qualify as manufacturers/product sellers of Roundup under the NJPLA as set forth and defined in full in the complaints. All Defendants were or are doing business in the State of New Jersey.

³ Roundup here refers to all formulations of Defendants' product line including, but not limited to: Roundup Concentrate Poison Ivy and Tough Brush Killer 1, Roundup Custom Herbicide, Roundup D-Pak herbicide, Roundup Dry Concentrate, Roundup Export Herbicide, Roundup Fence & Hard Edger 1, Roundup Garden Foam Weed & Grass Killer, Roundup Grass and Weed Killer, Roundup Herbicide, Roundup Original 2k herbicide, Roundup Original II Herbicide, Roundup Pro Concentrate, Roundup Prodry Herbicide, Roundup Promax, Roundup Quik Stik Grass and Weed Killer, Roundup Quikpro Herbicide, Roundup Rainfast Concentrate Weed & Grass Killer, Roundup Rainfast Super Concentrate Weed & Grass Killer, Roundup Ready-to-Use Extended Control Weed & Grass Killer 1 Plus Weed Preventer, Roundup Ready-to-Use Weed & Grass Killer, Roundup Ready-to-Use Weed and Grass Killer 2, Roundup Ultra Dry, Roundup Ultra Herbicide, Roundup Ultramax, Roundup VM Herbicide, Roundup Weed & Grass Killer Concentrate, Roundup Weed & Grass Killer Concentrate Plus, Roundup Weed & Grass killer Ready-to-Use Plus, Roundup Weed & Grass Killer Super Concentrate, Roundup Weed & Grass Killer1 Ready-to-Use, Roundup WSD Water Soluble Dry Herbicide Deploy Dry Herbicide, or any other formulation of Roundup containing the active ingredient glyphosate.

⁴ Monsanto, the Bayer Defendants, and the fictitiously-named Defendants are collectively referenced as "Defendants" herein.

II. Centralized Management of These Cases Is Appropriate Under the Guidelines

As set forth in the Guidelines, mass tort designation (multi-county litigation) is warranted when a litigation involves a large number of parties; many claims with common, recurrent issues of law and fact that are associated with a single product; the parties are geographically dispersed; and there is a high degree of remoteness between the court and actual decision-makers in the litigation; among other considerations. This litigation meets the above-enunciated criteria.

A. Plaintiffs' Pleadings Present Common Issues of Fact and Law

Plaintiffs bring these claims against Monsanto and the Bayer Defendants for their failure to warn Plaintiffs of Roundup's carcinogenicity. Roundup, which first came onto the market in the 1970s, contains glyphosate and other harmful chemicals. Plaintiffs allege generally that Monsanto knew of glyphosate's dangers and concealed those risks from the public. In 2015, the World Health Organization's International Agency for Research on Cancer ("IARC"), an organization comprised of independent scientists across the world, classified glyphosate, the active ingredient in Roundup, as a Class 2A Probable Human Carcinogen. Monsanto responded to this scientific finding by attempting to wage an attack campaign against IARC and independent scientists. Further, Plaintiffs have all been diagnosed with NHL and have suffered a similar spectrum of damages.

Bayer AG acquired Monsanto on September 14, 2016, combining it with its Bayer CropScience division with the goal of "creat[ing] significant strategic benefits." The Bayer Defendants have continued to manufacture and market glyphosate-containing Roundup.⁵ Plaintiffs all allege that the Bayer Defendants are liable for Monsanto's acts as successors and by continuing to sell Roundup with glyphosate. Several Plaintiffs also allege that Monsanto and the Bayer Defendants are alter egos of each other.

Accordingly, the common issues presented in Plaintiffs' complaints evince significant common issues of facts and law, including a high degree of commonality between Plaintiffs' injuries and damages, which warrant centralized management.

B. Centralization Will Promote Judicial Efficiency

The Guidelines delineate several factors supporting centralized management that focus on conserving judicial resources and promoting judicial efficiency:

- "whether centralization would result in the efficient utilization of judicial resources and the facilities and personnel of the court"
- "whether there is a risk of duplicative and inconsistent rulings, orders or judgments if the cases are not managed in a coordinated fashion"
- "whether the cases require specialized expertise and case processing as provided by the dedicated multicounty litigation judge and staff"

⁵ Bayer AG announced that it (including the Bayer Defendants here) will replace its glyphosate-based products in the U.S. residential lawn and garden market with non-glyphosate active ingredients beginning in 2023 but will continue to sell Roundup with glyphosate for commercial and agricultural uses in the United States.

- “whether there are related matters pending in Federal court or in other state courts that require coordination with a single New Jersey judge”

Guidelines, at ¶ 2. See also *In re Accutane Litig.*, 194 A. 3d 503, 522-23 (2013) (the New Jersey Supreme Court holding that an MCL is “intended to make more manageable the processing of hundreds and sometimes thousands of cases . . . [with] [o]ne of the reasons [being] to gain the benefits of administrative efficiency”).

First, there is no question that centralized management of these cases by a single court will conserve valuable judicial resources, particularly as additional cases are filed in the coming months. Over the last several months, multiple judges across New Jersey’s courts have ruled on virtually identical motions to dismiss involving substantially similar issues of fact and law in well over a dozen separate cases and have reached different opinions on whether the environmental tort exception to the New Jersey Products Liability Act applies to certain Plaintiffs’ occupational exposure to Roundup. Thus, duplicative and inconsistent rulings are no longer a mere risk—they have already occurred and will continue to occur absent centralization in a single vicinage before a single judge.

Second, centralizing these cases in a vicinage that has substantial experience in handling other complex MCLs will significantly promote efficiency for New Jersey’s courts and the parties. MCL judges and the court staff in MCL vicinages are typically well-versed in the common issues that arise in complex matters such as these Roundup cases. Thus, centralizing these cases will allow the parties to benefit from a judge and court staff that are familiar with complex legal and administrative issues that arise in matters such as these and ease the burden on multiple New Jersey vicinages currently dealing with matters that seldom arise in those courts.

Third, Roundup cases are currently centralized in federal and various state courts, and centralizing Roundup cases in front of a single judge in New Jersey will aid in coordination with these other related consolidated proceedings. See Initial Transfer Order, *In Re: Roundup Products Liability Litigation*, MDL No. 2741 (United States Judicial Panel on Multidistrict Litigation Oct. 3, 2016) (“On the basis of the papers filed and hearing session held, we find that these actions involve common questions of fact, and that centralization in the Northern District of California will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. These actions share common factual questions arising out of allegations that Monsanto’s Roundup herbicide, particularly its active ingredient, glyphosate, causes non-Hodgkin’s lymphoma.”) (attached as Exhibit C); Order Granting Petition for Coordination, *Roundup Product Cases*, Judicial Council Coordination Proceedings No. 4953 (Cal. Super. Ct. Jan. 4, 2018) (centralizing and coordinating all Roundup cases in California state courts in Alameda County) (attached as Exhibit D); Order Granting Petition to Coordinate Roundup Products Liability Cases, *In Re: Roundup Products Liability Litigation*, No. 550 (Pa Ct. Comm. Pls. May 11, 2022) (centralizing and coordinating all Roundup actions in Pennsylvania state courts in the Philadelphia Court of Common Pleas’ Complex Litigation Center) (attached as Exhibit E).

C. Centralization Will Be Fair and Convenient to the Parties, Witnesses, and Counsel

The Guidelines likewise support the granting of an MCL petition where coordinated discovery will be advantageous, and centralization will not cause unreasonable delay or prejudice. *Guidelines*, at

¶ 2. The circumstances here satisfy both factors. Where, as here, there is considerable overlap of facts and law since all Plaintiffs suffered similar injuries, NHL, from exposure to a singular product, glyphosate-containing Roundup, it is self-evident that general discovery will be markedly similar, if not identical. Centrally managing that discovery will undoubtedly be advantageous for the parties. This coordination of general discovery will also prevent unreasonable delay or prejudice that could result from disparate rulings if these cases continue to proceed in courtrooms throughout New Jersey.

D. The Number of Roundup Cases Pending in New Jersey Courts Warrants Centralization

After considering Plaintiffs' first petition for centralization, the Supreme Court "based its denial on the limited number of cases" then pending in New Jersey courts. *See* Exhibit B. The Court further advised that "[t]he application may be resubmitted if the total number of plaintiffs increases." *Id.* There were 10 active cases when Plaintiffs filed their petition and 22 active cases when the Court denied it.

In contrast, there are now 41 active Roundup cases. This number is nearly identical to the 41 Bard Implanted Port Catheter cases that were pending when the Court granted⁶ those plaintiffs' petition⁷ for centralization in Bergen County after denying a previous petition due to the limited number of then-pending cases. The need for centralization is more acute for the Roundup cases because, unlike the Bard cases that were all pending in Bergen County and filed by the same plaintiffs' counsel, these cases are scattered across eight New Jersey Counties and vicinages, assigned to 10 different judges, and represented by six separate law firms.

III. Atlantic County Is the Proper Vicinage for Centralized Management of the Roundup Cases

It is within the Supreme Court's discretion to choose the proper vicinage for centralized management of these Roundup cases. *Guidelines*, at ¶ 3. In making its decision, the Court will consider "[i]ssues of fairness, geographical location of the parties and attorneys, and the existing civil and multicounty litigation caseload in the vicinage" when determining the vicinage for centralized management. *Id.* Plaintiffs respectfully submit that these factors favor centralization in vicinage one, Atlantic County.

First, Atlantic County is in one of the three vicinages where the Court has previously assigned mass tort cases for centralized management and 33 of the currently pending Roundup cases are located in Atlantic County. *See generally*, Exhibit A. In contrast, Bergen County only has one pending Roundup case, and Middlesex County only has two. *Id.* Further, Judge Porto is already familiar with the issues in the Roundup cases as 11 of the 33 cases in Atlantic County are assigned to him, and he continues

⁶ Request Pursuant to R. 4:38A for Multi-County Litigation Designation for Cases Involving Bard Implanted Port Product (May 17, 2024), available at <https://www.njcourts.gov/sites/default/files/mcl/bard-implanted-port-catheter-products/mcl-application-bard-imp-port-catheter-approved-application.pdf>

⁷ Multicounty Litigation – Designation of Bard Implanted Port Catheter Productions Litigation as MCL (Oct. 15, 2024), available at <https://www.njcourts.gov/sites/default/files/notices/2024/10/n241021b.pdf?cb=a155b946>

to preside over extensive motion practice⁸. Judge Porto also has extensive experience in managing other complex MCL matters; indeed, even one of the judges—who is presiding over the remaining 22 cases in Atlantic County—has indicated that she would defer to Judge Porto while deciding any motions in the Roundup cases assigned to her. See Exhibit F, *Transcript of Oral Argument* at 33-34, *Riehl, et al. v. Monsanto Co., et al.*, ATL-L-701-24 before Hon. Danielle J. Walcoff, J.S.C. (“Judge Porto and I have other cases similar to yours, where they’re not MCLs, but they’re the same complaints, they’re the same defendants, different plaintiffs. And I will usually always defer to him each time just because he is the presiding judge of Civil, so you will always see me bump it past whenever he is deciding his motion.”). The staff in Atlantic County is also well-versed in issues that typically arise in MCLs. Therefore, centralizing these cases before Judge Porto will ensure that they proceed without delay.

Second, Atlantic County is located conveniently near several international airports (*e.g.*, Philadelphia, Atlantic City, and Newark), easing potential travel constraints to New Jersey by Defendants’ nationwide counsel and any out-of-state parties and witnesses. Atlantic County is also within a reasonable driving distance from Defendants’ New Jersey offices. Additionally, New Jersey courts routinely allow counsel and parties to appear remotely, further easing any geographic concerns about centralizing these cases in Atlantic County.

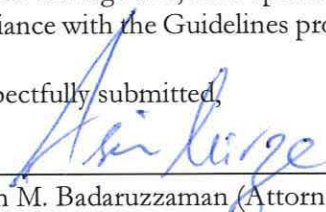
Third, the existing civil and multicounty litigation caseload in Atlantic County does not pose an impediment to centralizing these cases there. Per the Court’s website, <http://www.judiciary.state.nj.us/mass-tort/index.html>, there are eight multicounty litigations centralized in Atlantic County. However, several of these litigations—Abilify, Proton-Pump Inhibitors, and several of the surgical mesh cases—are now largely resolved. In contrast, Bergen County has 10 active multicounty litigations, and Middlesex County has four. Further, the Supreme Court recently centralized the Bard Implanted Port Catheter Products MCL in Bergen County, which will likely increase the caseload in Bergen.

Thus, Atlantic County is the most practicable venue for establishing an MCL, and the County’s institutional experience in handling complex mass tort centralizations will allow these cases to proceed efficiently and without delay.

IV. Conclusion

For the foregoing reasons, Plaintiffs respectfully move that their litigation against Monsanto and the Bayer Defendants be designated as an MCL in vicinage one, the Superior Court of New Jersey, Atlantic County, pursuant to R. 4:38A and in compliance with the Guidelines promulgated thereunder.

Respectfully submitted,


Asim M. Badaruzzaman (Attorney ID 040462009)
Matthew B. Sicheri (Attorney ID 256102018)
Glenn D. Kohles, Jr. (Attorney ID 346402021)
SBAITI & COMPANY NJ LLC

⁸ As of the date of this application, Judge Porto has decided substantive motions in three Roundup cases and has an additional 11 motions pending in six Roundup cases with return dates in the next 30 days.

100 Mulberry Street
3 Gateway Center, Suite 1102
Newark, New Jersey 07102
P: (973) 954-2000
F: (973) 954-9710
amb@sbaitilaw.com
matthew.sicheri@sbaitilaw.com
glenn.kohles@sbaitilaw.com

Daniel Lapinski

Daniel Lapinski (Attorney ID 004612001)
Fidelma Fitzpatrick (*pro hac vice* application forthcoming)

MOTLEY RICE LLC

210 Lake Drive East, Suite 101
Cherry Hill, NJ 08002
Ph: 856-667-0500
Fax: 856-667-5133
dlapinski@motleyrice.com
ffitzpatrick@motleyrice.com

James Bilsborrow

James Bilsborrow (Attorney ID 382552021)
Ellen Relkin (Attorney ID 006691985)
Joseph J. Mandia (Attorney ID 016652008)
Robin L. Greenwald (admitted *Pro Hac Vice*)
Chantal Levy (admitted *Pro Hac Vice*)
Greg Stamatopoulos (admitted *Pro Hac Vice*)

WEITZ & LUXENBERG, P.C.

700 Broadway, Fifth Floor
New York, New York 10003
P: (212) 558-5500
F: (212) 344-5461
jbilsborrow@weitzlux.com
erelkin@weitzlux.com
jmandia@weitzlux.com
rgreenwald@weitzlux.com
ckhalil@weitzlux.com
gstamatopoulos@weitzlux.com

Hunter Shkolnik

Hunter Shkolnik (Attorney ID 41531985)
Napoli Shkolnik
1302 Avenida Ponce de Leon
Santurce, Puerto Rico 00907
Telephone: (833) 271-4502
Hunter@NSPRLaw.com

Shayna E. Sacks

Shayna E. Sacks (Attorney ID 403172002)
Christopher L. Schnieders (admitted *Pro Hac Vice*)
Napoli Shkolnik PLLC
360 Lexington Avenue, Eleventh Floor
New York, NY 10017
Tel: (212) 397-1000
Fax: (646) 843-7603
SSacks@NapoliLaw.com
CSchnieders@NapoliLaw.com

Attorneys for Plaintiffs

cc: Hon. Michael J. Blee, Assignment Judge (Via Overnight Mail)
Hon. John C. Porto, Civil Presiding Judge (Via Overnight Mail)
Allison Theoharis, Court Services Supervisor (Via Overnight Mail)
Natalie A. Williams, Civil Division Manager (Via Overnight Mail)
Hon. M. Susan Sheppard, P.J.Ch. (Via Overnight Mail)
Hon. Danielle J. Walcoff, J.S.C. (Via Overnight Mail)
Hon. Alberto Rivas, J.S.C. (Via Overnight Mail)
Hon. Eric G. Fikry, P.J.Cv. (Via Overnight Mail)
Hon. Benjamin S. Bucca, J.S.C. (Via Overnight Mail)
Hon. William E. Marsala, J.S.C. (Via Overnight Mail)
Hon. Owen C. McCarty, P.J.Cv. (Via Overnight Mail)
Hon. William J. McGovern, J.S.C. (Overnight Mail)
All Known Defense Counsel (Via Electronic Mail)
All Known Plaintiffs' Counsel (Via Electronic Mail)

EXHIBIT A

SCHEDULE OF ROUNDUP CASES PENDING AS OF FEBRUARY 26, 2025

ATLANTIC COUNTY CASES

DOCKET NO.	CASE NAME	ASSIGNED JUDGE	PLAINTIFF'S FIRM
ATL-L-51-25	Burch, David v. Monsanto Co., et al.	Hon. Danielle J. Walcoff, J.S.C.	Sbaiti & Company NJ LLC
ATL-L-52-25	Gerdes, Jonathan v. Monsanto Co., et al.	Hon. Danielle J. Walcoff, J.S.C.	Sbaiti & Company NJ LLC
ATL-L-54-25	Scott, Steven v. Monsanto Co., et al.	Hon. Danielle J. Walcoff, J.S.C.	Sbaiti & Company NJ LLC
ATL-L-55-25	Dunn, Garland v. Monsanto Co., et al.	Hon. Danielle J. Walcoff, J.S.C.	Sbaiti & Company NJ LLC
ATL-L-40-25	Bailey, Patricia v. Monsanto Co., et al.	Hon. John C. Porto, P.J. Cv.	Sbaiti & Company NJ LLC
ATL-L-2551-24	Sorlie, Dean, et al. v. Monsanto Co., et al.	Hon. John C. Porto, P.J. Cv.	Sbaiti & Company NJ LLC
ATL-L-2546-24	Torres, Jr., Adam v. Monsanto Co., et al.	Hon. Danielle J. Walcoff, J.S.C.	Sbaiti & Company NJ LLC
ATL-L-2547-24	Jackson, Tiffany v. Monsanto Co., et al.	Hon. John C. Porto, P.J. Cv.	Sbaiti & Company NJ LLC
ATL-L-2548-24	Keltner, Patricia, et al. v. Monsanto Co., et al.	Hon. Danielle J. Walcoff, J.S.C.	Sbaiti & Company NJ LLC
ATL-L-2534-24	Kenefsky, Jason v. Monsanto Co., et al.	Hon. John C. Porto, P.J. Cv.	Sbaiti & Company NJ LLC
ATL-L-2535-24	O'Rourke, David, et al. v. Monsanto Co., et al.	Hon. John C. Porto, P.J. Cv.	Sbaiti & Company NJ LLC
ATL-L-2525-24	Jordan, Carly v. Monsanto Co., et al.	Hon. Danielle J. Walcoff, J.S.C.	Sbaiti & Company NJ LLC
ATL-L-2511-24	Hosea, Don, et al. v. Monsanto Co., et al.	Hon. Danielle J. Walcoff, J.S.C.	Sbaiti & Company NJ LLC
ATL-L-2294-24	Detamble, Richard v. Monsanto Co., et al.	Hon. Danielle J. Walcoff, J.S.C.	Sbaiti & Company NJ LLC
ATL-L-2192-24	Butler, John et al. v. Monsanto Co., et al.	Hon. John C. Porto, P.J. Cv.	Sbaiti & Company NJ LLC
ATL-L-699-24	Caruso, Joseph v. Monsanto Co., et al.	Hon. Danielle J. Walcoff, J.S.C.	Weitz & Luxenberg, P.C.
ATL-L-700-24	Moreland, Nicole v. Monsanto Co., et al.	Hon. John C. Porto, P.J. Cv.	Weitz & Luxenberg, P.C.
ATL-L-701-24	Riehl, Michael v. Monsanto Co., et al.	Hon. Danielle J. Walcoff, J.S.C.	Weitz & Luxenberg, P.C.
ATL-L-702-24	Pasquale, Danielle v. Monsanto Co., et al.	Hon. Danielle J. Walcoff, J.S.C.	Motley Rice, LLC
ATL-L-549-24	Sanderson, Bruce v. Monsanto Co., et al.	Hon. Danielle J. Walcoff, J.S.C.	Wilentz, Goldman & Spitzer, P.A.
ATL-L-371-24	Holland, Donna v. Monsanto Co., et al.	Hon. John C. Porto, P.J. Cv.	Napoli Shkolnik PLLC

ATL-L-372-24	Freed, Leonard v. Monsanto Co., et al.	Hon. John C. Porto, P.J. Cv.	Napoli Shkolnik PLLC
ATL-L-373-24	Palmer, Dana v. Monsanto Co., et al.	Hon. Danielle J. Walcoff, J.S.C.	Napoli Shkolnik PLLC
ATL-L-331-24	Chapman, John v. Monsanto Co., et al.	Hon. Danielle J. Walcoff, J.S.C.	Weitz & Luxenberg, P.C.
ATL-L-284-24	Myaskovskaya, Marina v. Monsanto Co., et al.	Hon. John C. Porto, P.J. Cv.	Motley Rice, LLC
ATL-L-114-24	Capobianco, William v. Monsanto Co., et al.	Hon. Danielle J. Walcoff, J.S.C.	Weitz & Luxenberg, P.C.
ATL-L-115-24	Engelbrecht, Judith v. Monsanto Co., et al.	Hon. Danielle J. Walcoff, J.S.C.	Weitz & Luxenberg, P.C.
ATL-L-27-24	Brown, Joseph v. Monsanto Co., et al.	Hon. Danielle J. Walcoff, J.S.C.	Weitz & Luxenberg, P.C.
ATL-L-28-24	Marvel, Donald v. Monsanto Co., et al.	Hon. Danielle J. Walcoff, J.S.C.	Weitz & Luxenberg, P.C.
ATL-L-29-24	Mirra, Pasquale v. Monsanto Co., et al.	Hon. Danielle J. Walcoff, J.S.C.	Weitz & Luxenberg, P.C.
ATL-L-3229-23	Marra, Salvatore v. Monsanto Co., et al.	Hon. Danielle J. Walcoff, J.S.C.	Weitz & Luxenberg, P.C.
ATL-L-288-25	Rapp, Dean v. Monsanto Co., et al.	Hon. Danielle J. Walcoff, J.S.C.	Sbaiti & Company NJ LLC
ATL-L-547-24	Kowal, Dawn v. Monsanto Co., et al.	Hon. John C. Porto, P.J. Cv.	Wilentz, Goldman & Spitzer, P.A.

MIDDLESEX COUNTY CASES

DOCKET NO.	CASE NAME	ASSIGNED JUDGE	PLAINTIFF'S FIRM
MID-L-39-25	Lordi, Jr., Richard v. Monsanto Co., et al.	Hon. Alberto Rivas, J.S.C.	Cohen, Placitella & Roth
MID-L-45-25	Reilly, Joseph v. Monsanto Co., et al.	Hon. Joseph L. Rea, J.S.C.	Cohen, Placitella & Roth

MONMOUTH COUNTY CASES

DOCKET NO.	CASE NAME	ASSIGNED JUDGE	PLAINTIFF'S FIRM
MON-L-4321-24	Lied, Barry v. Monsanto Co., et al.	Hon. Owen C. McCarthy, P.J.Cv.	Cohen, Placitella & Roth

BERGEN COUNTY CASES

DOCKET NO.	CASE NAME	ASSIGNED JUDGE	PLAINTIFF'S FIRM
BER-L-1264-24	Westtenhiser, Janet v. Monsanto Co., et al.	Hon. William C. Soukas, J.S.C.	Napoli Shkolnik PLLC

BURLINGTON COUNTY CASES

DOCKET NO.	CASE NAME	ASSIGNED JUDGE	PLAINTIFF'S FIRM
BUR-L-2380-23	Lewis, Eugenia v. Monsanto Co., et al.	Hon. Eric G. Fikry, P.J.Cv.	Motley Rice, LLC

GLOUCESTER COUNTY CASES

DOCKET NO.	CASE NAME	ASSIGNED JUDGE	PLAINTIFF'S FIRM
GLO-L-1393-23	Connelly, Joseph v. Monsanto Co., et al.	Hon. Benjamin D. Morgan, J.S.C.	Motley Rice, LLC

PASSAIC COUNTY CASES

DOCKET NO.	CASE NAME	ASSIGNED JUDGE	PLAINTIFF'S FIRM
PAS-L-3477-23	McLaughlin, Michael v. Monsanto Co., et al.	Hon. William E. Marsala, J.S.C.	Motley Rice, LLC

SUSSEX COUNTY CASES

DOCKET NO.	CASE NAME	ASSIGNED JUDGE	PLAINTIFF'S FIRM
SSX-L-526-23	Longo, Richard v. Monsanto Co., et al.	Hon. William J. McGovern, J.S.C.	Motley Rice, LLC

EXHIBIT B

GLENN A. GRANT, J.A.D.
Acting Administrative Director of the Courts

Richard J. Hughes Justice Complex • P.O. Box 037 • Trenton, NJ 08625-0037 njcourts.gov • Tel: 609-376-3000 • Fax: 609-376-3002

May 28, 2024

Daniel R. Lapinski, Esq.
Motley Rice LLC
210 Lake Dr. East
Cherry Hill, New Jersey 08002

RE: Application Requesting Multicounty Litigation Designation of Roundup Cases

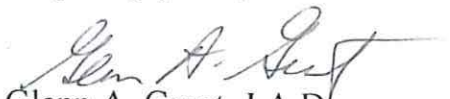
Dear Attorney Lapinski:

This is to advise the Supreme Court has acted on your application requesting multicounty litigation (MCL) designation for New Jersey state-court litigation involving the Roundup cases. After requesting comments to the application and having considered the application and the comments received, the Supreme Court determined not to grant your application. The Court based its denial on the limited number of cases at present. The application may be resubmitted if the total number of plaintiffs increases.

Enclosed for your information is the May 28, 2024 Notice to Bar advising of the Court's action in this matter. I would ask that you promptly provide all counsel of record copies of this letter and enclosure.

Any questions regarding this matter may be directed to Melissa A. Czartoryski, Esq., Chief in the Civil Practice Division of the Administrative Office of the Courts at (609) 815-2900 ext. 54900.

Very truly yours,



Glenn A. Grant, J.A.D.
Acting Administrative Director

Enclosure

Daniel R. Lapinski, Esq.

May 28, 2024

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**cc: Steven D. Bonville, Chief of Staff
Jennifer M. Perez, Director, Trial Court Services
Taironda E. Phoenix, Assistant Director, Civil Practice
Special Assistants to the Administrative Director
Melissa A. Czartoryski, Chief, Civil Practice**

NOTICE TO THE BAR

DENIAL OF APPLICATION FOR MULTICOUNTY LITIGATION **DESIGNATION OF NEW JERSEY STATE COURT CASES** **INVOLVING ROUNDUP® PRODUCTS**

A previous Notice to the Bar sought comments on an application for designation as Multicounty Litigation (MCL) of New Jersey state cases against Monsanto Company, Bayer AG, Bayer Cropscience LP, Bayer Cropscience LLC, Bayer Corporation, and Bayer U.S. LLC, alleging injuries as a result of exposure to Roundup® Products. That application was submitted pursuant to Rule 4:38A and the Multicounty Litigation Guidelines and Criteria for Designation (Revised) as promulgated by Directive #02-19. This Notice is to advise that the Supreme Court, after considering the application and all comments received, has determined not to grant the application. The Court based its denial on the limited number of cases at present. Accordingly, all cases involving Roundup® Products should continue to be filed in the appropriate counties of venue.

This Notice will also be posted in the Multicounty Information Center (<https://www.njcourts.gov/attorneys/multicounty-litigation>) on the Judiciary's website ([njcourts.gov](https://www.njcourts.gov)).

Questions concerning this matter may be directed to Melissa Czartoryski, Esq., Chief, Civil Court Programs, Administrative Office of the Courts, Hughes Justice Complex, P.O. Box 981, Trenton, New Jersey 08625-0981; telephone (609) 815-2900 ext. 54901; e-mail address: Melissa.Czartoryski@njcourts.gov.



Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: May 28, 2024

EXHIBIT C

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: ROUNDUP PRODUCTS
LIABILITY LITIGATION**

MDL No. 2741

TRANSFER ORDER

Before the Panel: Plaintiffs in the *Giglio* and *Hardeman* actions listed on Schedule A move under 28 U.S.C. § 1407 to centralize pretrial proceedings in this litigation in the Southern District of Illinois. This litigation consists of twenty-one actions pending in fourteen districts, as listed on Schedule A. The actions allege that Roundup, a widely used glyphosate-based herbicide manufactured by Monsanto Company, can cause non-Hodgkin's lymphoma and that Monsanto failed to warn consumers and regulators about the alleged risks of Roundup. Since the filing of the motion, the parties have notified the Panel of another sixteen related actions pending in twelve districts.¹

All responding plaintiffs support centralization, but suggest different transferee districts. Plaintiffs in three actions and a potential tag-along action support centralization in the Southern District of Illinois. Plaintiffs in another three actions propose centralization in the Central District of California. Plaintiffs in one action suggest centralization in the Southern District of Illinois, the Central District of California, or the Eastern District of California. Plaintiffs in five actions suggest instead centralization in the District of Hawaii. Plaintiff in one action does not oppose the Southern District of Illinois, but suggests that the Eastern District of Louisiana is a more appropriate transferee district. Finally, plaintiff in one potential tag-along action suggests centralization in the Northern District of Illinois. Various plaintiffs alternatively support the Central District of California, the District of Hawaii, or the Southern District of Illinois.

Defendant Monsanto Company opposes centralization. Should the Panel centralize this litigation over Monsanto's objections, it alternatively proposes centralization in the Northern District of California, the Southern District of California, or the Southern District of Florida. Monsanto's primary arguments against centralization are that: (1) individualized facts concerning each plaintiff's case, such as the nature of plaintiff's exposure, the formulation of Roundup to which plaintiff was exposed, and the specific type of non-Hodgkins' lymphoma plaintiff developed, will predominate over common factual issues; and (2) informal coordination and cooperation among the involved parties and courts are preferable to centralization. We are not persuaded by either argument.

There undoubtedly are some individualized factual issues presented by these actions, but they do not negate the efficiencies to be gained by centralization. Regardless of the particular formulation

¹ These and any other related actions are potential tag-along actions. See Panel Rules 1.1(h), 7.1, and 7.2.

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of Roundup at issue (all of which employ glyphosate as the active ingredient), or the nature of plaintiff's exposure to glyphosate, all the actions entail an overarching query—whether glyphosate causes non-Hodgkin's lymphoma in persons exposed to it while using Roundup. Monsanto itself implicitly acknowledges the predominance of this common question as it has moved in a number of the underlying actions to bifurcate discovery to address general causation issues before plaintiff-specific ones. In any event, almost all personal injury litigation involves plaintiff-specific questions of causation and damages. Those differences are not an impediment to centralization when common questions of fact are multiple and complex, as they are here. See *In re Xarelto (Rivaroxaban) Prods. Liab. Litig.*, 65 F. Supp. 3d 1402, 1404 (J.P.M.L. 2014). When discovery and other pretrial proceedings related to the common issues have been completed, the transferee judge may suggest Section 1407 remand of the actions to their transferor courts for more individual discovery and trial, if necessary. See *In re Darvocet, Darvon & Propoxyphene Prods. Liab. Litig.*, 780 F. Supp. 2d 1379, 1381 (J.P.M.L. 2011).

Turning to Monsanto's second argument, we conclude that informal coordination among the involved courts and counsel is not practicable in this instance. Including the potential tag-along actions, there are now thirty-seven actions pending in twenty-one districts. More than ten different law firms represent plaintiffs in these actions, which are spread across the country. Even if no additional actions are filed, the present number of cases, districts, and involved counsel, as well as the complexity of the issues presented, warrants centralization.

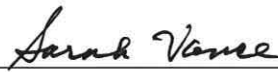
On the basis of the papers filed and hearing session held, we find that these actions involve common questions of fact, and that centralization in the Northern District of California will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. These actions share common factual questions arising out of allegations that Monsanto's Roundup herbicide, particularly its active ingredient, glyphosate, causes non-Hodgkin's lymphoma. Plaintiffs each allege that they or their decedents developed non-Hodgkin's lymphoma after using Roundup over the course of several or more years. Plaintiffs also allege that the use of glyphosate in conjunction with other ingredients, in particular the surfactant polyethoxylated tallow amine (POEA), renders Roundup even more toxic than glyphosate on its own. Issues concerning general causation, the background science, and regulatory history will be common to all actions. Centralization will eliminate duplicative discovery; prevent inconsistent pretrial rulings (including with respect to discovery, privilege, and *Daubert* motion practice); and conserve the resources of the parties, their counsel, and the judiciary.

We select the Northern District of California as the appropriate transferee district for this litigation. Two of the earliest-filed and most procedurally advanced actions are pending in this district. The Northern District of California is both convenient and easily accessible for all parties, and we are convinced that the district has the necessary judicial resources and expertise to efficiently manage this litigation. Furthermore, centralization in this district allows us to assign this litigation to the Honorable Vince Chhabria, a skilled jurist who has not yet had the opportunity to preside over an MDL.

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IT IS THEREFORE ORDERED that the actions listed on Schedule A and pending outside the Northern District of California are transferred to the Northern District of California and, with the consent of that court, assigned to the Honorable Vince Chhabria for coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in cursive script, reading "Sarah S. Vance", is positioned above a horizontal line.

Sarah S. Vance
Chair

Marjorie O. Rendell
Lewis A. Kaplan
R. David Proctor

Charles R. Breyer
Ellen Segal Huvelle
Catherine D. Perry

**IN RE: ROUNDUP PRODUCTS
LIABILITY LITIGATION**

MDL No. 2741

SCHEDULE A

Central District of California

MCCALL v. MONSANTO COMPANY, C.A. No. 2:16-01609
HERNANDEZ, ET AL. v. MONSANTO COMPANY, C.A. No. 2:16-01988
JOHANSING v. MONSANTO COMPANY, C.A. No. 2:16-05035
SANDERS, ET AL. v. MONSANTO COMPANY, C.A. No. 5:16-00726

Eastern District of California

MENDOZA v. MONSANTO COMPANY, C.A. No. 1:16-00406

Northern District of California

HARDEMAN v. MONSANTO COMPANY, ET AL., C.A. No. 3:16-00525
STEVIK, ET AL. v. MONSANTO COMPANY, C.A. No. 3:16-02341

Southern District of California

GIGLIO v. MONSANTO COMPANY, ET AL., C.A. No. 3:15-02279

Southern District of Florida

RUIZ, ET AL. v. MONSANTO COMPANY, C.A. No. 9:16-80539

District of Hawaii

SHEPPARD, ET AL. v. MONSANTO COMPANY, C.A. No. 1:16-00043
JOHNSON v. MONSANTO COMPANY, C.A. No. 1:16-00075

Northern District of Illinois

GIBBS v. MONSANTO COMPANY, C.A. No. 1:16-07588

Southern District of Illinois

BRIDGEMAN v. MONSANTO COMPANY, C.A. No. 3:16-00812
HARRIS v. MONSANTO COMPANY, ET AL., C.A. No. 3:16-00823
PATTERSON v. MONSANTO COMPANY, C.A. No. 3:16-00825

-A2-

Western District of Kentucky

MEANS v. MONSANTO COMPANY, C.A. No. 5:16-00112

Eastern District of Louisiana

WORK v. RAGAN AND MASSEY, INC., ET AL., C.A. No. 2:16-07491

District of Massachusetts

SCHEFFER v. MONSANTO COMPANY, C.A. No. 1:16-11489

Northern District of Mississippi

COUEY v. MONSANTO COMPANY, C.A. No. 4:16-00149

District of Nebraska

DOMINA, ET AL. v. MONSANTO COMPANY, C.A. No. 4:16-03074

Western District of Wisconsin

PORATH v. MONSANTO COMPANY, C.A. No. 3:16-00518

EXHIBIT D



FILED
ALAMEDA COUNTY

JAN 04 2018

CLERK OF THE SUPERIOR COURT
By Pam. Williams
Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

COORDINATED PROCEEDINGS
SPECIAL TITLE (RULE 3.550)

JUDICIAL COUNCIL
COORDINATION PROCEEDING
No. 4953

ROUNDUP PRODUCT CASES

ORDER GRANTING PETITION FOR
COORDINATION

AND COORDINATED ACTIONS

A Petition for Coordination was submitted to the Judicial Council on October 17, 2017 ("Petition") by Plaintiffs Loretta Pennie *et al.* The undersigned, Judge Ioana Petrou, was assigned as Coordination Motion Judge pursuant to Code of Civil Procedure § 404 and California Rules of Court, Rule 3.524, on November 21, 2017. The Petition came on for hearing on December 20, 2017.

The Court, having considered the Petition and the Response thereto, orders that the Petition for Coordination is GRANTED. The Court finds that the included actions listed in the Petition are complex pursuant to California Rules of Court, Rule 3.502, and that the included actions meet the standards set forth in Code of

Civil Procedure § 404.1.

While Defendants did not oppose coordination of the included actions for pre-trial purposes, they did oppose Plaintiffs' proposed choices for the site of the coordination proceedings.

Plaintiffs recommended Alameda County as the most appropriate venue for coordination proceedings, with San Francisco County as the next most appropriate venue, and Santa Barbara as the third alternative. Defendants recommended Riverside County as the most appropriate venue, with San Diego County as the alternative venue.

Pursuant to California Rules of Court, Rule 3.530(b), in determining the site for the coordination proceedings, the Court may consider any relevant factor, including the following: the number of included actions in particular locations; whether litigation is at advanced stage in a particular court; the efficient use of court facilities and judicial resources; the location of witnesses and evidence; the convenience of parties and witnesses; the parties' principal places of business; the office locations of counsel for both parties; and the ease of travel to and availability of accommodations in particular locations.

The Petition indicates that 14 of the 16 included cases were pending in Alameda County. However, following this Court's July 14, 2017 Order in *Billings v. Monsanto*, Case No. RG17-852375, and the Court's August 4, 2017 Order in *Pilliod v. Monsanto*, Case No. RG17-862-702, only five of the included cases are

properly pending in Alameda County. In addition, pursuant to the December 5, 2017 Joint Stipulation Regarding Venue and Related Issues in *Pennie v. Monsanto*, RG17-853420, the parties have agreed that all 33 Plaintiffs in that case other than Loretta Pennie will dismiss their claims in the Pennie case and refile in the county where their alleged exposure to Defendants' products occurred. None of those exposures occurred in Alameda, San Francisco, or Santa Barbara counties, four occurred in Riverside County, and two in San Diego County.

On December 14, 2017, Plaintiffs filed a Notice of Potential Add-On Cases, indicating that five multi-plaintiff cases were filed in San Francisco just the day before. Plaintiffs' counsel did not provide any information in that Notice concerning where those alleged exposures occurred, but he admitted that none of those plaintiffs live in San Francisco.

After taking into account this Court's prior orders severing various Plaintiffs from the Alameda cases and ordering them to refile their cases elsewhere and the parties' Stipulation to that effect in the *Pennie* case, approximately half of the Plaintiffs named in the Alameda cases will be refiling their cases somewhere in Southern California. It appears that ten of those cases will be refiled in Kern County, four in Riverside County, and the remainder will be refiled in counties throughout California. This factor may slightly favor coordination somewhere in Southern California, but only very slightly given the distribution of plaintiffs across the State of California.

None of the cases are in a truly advanced stage of litigation. One of the included actions, *Huerta v. Monsanto*, pending in Riverside County, is at a somewhat more advanced stage than the other included actions. The presiding judge, the Honorable Sharon Waters, has conducted five case management conferences, issued a confidentiality order, and bifurcated causation from other issues, but no trial date has been set. Therefore, while this case is more advanced than the others, it is not at a highly advanced stage.

As for the location and convenience of access to witnesses and evidence, approximately half of the named Plaintiffs from the included actions listed in the Petition for Coordination were allegedly exposed to Defendants' products in Southern California. This factor may slightly favor coordination in Southern California, but not strongly so. Conversely, the principal place of business of two Defendants, Wilbur-Ellis Company LLC and Wilbur-Ellis Feed LLC, is in San Francisco, which favors coordination in San Francisco or Alameda Counties.

Regarding ease of travel to and availability of accommodations in particular locations, the Court is persuaded that this factor strongly favors coordination in either San Francisco or Alameda Counties, rather than in Riverside or San Diego Counties. While this factor may favor coordination in Los Angeles County, where virtually all counsel are located, neither Plaintiffs nor Defendants have suggested Los Angeles County.

One factor only glancingly addressed by the parties' filings is that the multi-

district litigation proceeding pending in federal court is being heard by the Honorable Vincent Chhabria in the Northern District of California, located in San Francisco. This factor strongly favors coordination in either San Francisco or Alameda Counties, both to facilitate the coordination trial judge's ability to attend the scheduled Daubert evidentiary hearings and to allow counsel to coordinate hearing dates in Federal District Court and State Court.

Therefore, having considered the factors set forth in Rule 3.530(b), the Coordination Motion Judge hereby recommends to the Chair of the Judicial Council that the coordinated proceedings be conducted in the Superior Court of the State of California, County of Alameda.

Pursuant to Code of Civil Procedure § 404.2, the reviewing court with appellate jurisdiction over the coordinated actions shall be the First District Court of Appeal, San Francisco, California.

The list of cases subject to this Order is set forth below. The Court excludes the case of *Johnson v. Monsanto*, Case No. CGC-16-550128, pending in San Francisco County Superior Court and referenced in the Petition, because that case is already set for trial.

All of the included actions are stayed by operation of California Rules of Court, Rule 3.529(b).

The clerk of the court is directed to serve this order upon Petitioners forthwith and file proof of such service. Petitioners shall promptly file this order in

each included action, serve it on each party appearing in an included action, submit it to the Chair of Judicial Counsel, and file proof of such service and submission.

(California Rules of Court, Rules 3.529(a); 3.511(a)(9) & (b); and 3.510.)

List of Cases Subject to This Order

1. *Loretta I. Pennie, et al. v. Monsanto Company, et al.*, Case No. RG17853420 (Alameda County Superior Court).
2. *Mary Scalise v. Monsanto Company, et al.*, Case No. 17CV02577 (Santa Barbara County Superior Court).
3. *Gino Roth v. Monsanto Company, et al.*, Case No. RG17854000 (Alameda County Superior Court).
4. *Michael Woodbury v. Monsanto Company, et al.*, Case No. RG17855094 (Alameda County Superior Court).
5. *Charles Baker v. Monsanto Company, et al.*, Case No. RG17876143 (Alameda County Superior Court).
6. *Millard F. Billings v. Monsanto Company, et al.*, Case No. RG17852375 (Alameda County Superior Court).
7. *Alva Pilliod, et al. v. Monsanto Company, et al.*, Case No. RG17862702 (Alameda County Superior Court).
8. *William Clevenger v. Monsanto Company, et al.*, Case No. RG17872423 (Alameda County Superior Court).
9. *Rick Cole v. Monsanto Company, et al.*, Case No. RG17875095 (Alameda County Superior Court).
10. *Kelly Bezzerides v. Monsanto Company, et al.*, Case No. RG17873193 (Alameda County Superior Court).
11. *Gayle Michel v. Monsanto Company, et al.*, Case No. RG17872413 (Alameda County Superior Court).

12. *John Novak v. Monsanto Company, et al.*, Case No. RG17876078 (Alameda County Superior Court).
13. *Sharon Rowland v. Monsanto Company, et al.*, Case No. RG17876283 (Alameda County Superior Court).
14. *Sharon McClurg v. Monsanto Company, et al.*, Case No. RG17876148 (Alameda County Superior Court).
15. *Brenda Huerta, et al. v. Monsanto Company, et al.*, Case No. RIC 1600639 (Riverside County Superior Court).
16. *Thomas Barba v. Monsanto Company, et al.*, Case No. RG17876711 (Alameda County Superior Court).
17. *Veronica Thompson v. Monsanto Company, et al.*, Case No. RG17876733 (Alameda County Superior Court).
18. *Marjorie Grubka v. Monsanto C(or, if in Southern California, Los Angeles County, which neither party has suggested), ompany, et al.*, Case No. MSC17-02338 (Contra Costa County Superior Court).
19. *John Aiton, et al. v. Monsanto Company, et al.*, Case No. CGC-17-563100 (San Francisco County Superior Court).
20. *Charles T. Baker, et al. v. Monsanto Company, et al.*, Case No. CGC-17-563101 (San Francisco County Superior Court).
21. *Joyce Adele Behar, et al. v. Monsanto Company, et al.*, Case No. CGC-17-563102 (San Francisco County Superior Court).
22. *Stephen G. Kohn, et al. v. Monsanto Company, et al.*, Case No. CGC-17-563104 (San Francisco County Superior Court).
23. *James P. Norris, et al. v. Monsanto Company, et al.*, Case No. CGC-17-563105 (San Francisco County Superior Court).

//

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IT IS SO ORDERED.

January 4, 2018

Date

A handwritten signature in black ink, appearing to read 'Ioana Petrou', written over a horizontal line.

Ioana Petrou

Coordination Motion Judge

ROUNDUP PRODUCT CASES NO. JCCP 4953
CLERK'S CERTIFICATE OF MAILING

RECEIVED JAN 8 2018

I certify that the following is true and correct:

I am a Deputy Clerk employed by the Alameda County Superior Court. I am over the age of 18 years. My business address is 1221 Oak Street, Oakland, California. I served the ORDER GRANTING PETITION FOR COORDINATION by placing copies in envelopes addressed as shown below and sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Michael L. Baum
R. Brent Wisner
Pedram Esfandiary,
BAUM HEDLUND ARISTEI, & GOLDMAN, PC
12100 Wilshire Blvd. Suite 950
Los Angeles, CA 90025

Timothy Litzenburg
Curtis G. Hoke
Michael J. Miller
THE MILLER FIRM, LLC
108 Railroad Avenue
Orange, VA 22960

Robert F. Kennedy, Jr.
Kevin J. Madonna
KENNEDY & MADONNA, LLP
48 Dewitt Mills Road
Hurley, New York 12443

Nicholas R. Rockforte
Christopher L. Coffin
Jonathan E. Chatwin
PENDLEY, BAUDIN & COFFIN, LLP
1515 Poydras Street, Suite 1400
New Orleans, LA 70112

Aimee H. Wagstaff
David Wool
ANDRUS WAGSTAFF, PC
7171 W. Alaska Drive
Lakewood, CO 80226

Peter A. Miller
Thomas F. DellaFera, Jr.
MILLER DELLAFERA, PLC
3420 Pump Road, PMB 404
Henrico, VA 23233

Chair, Judicial Council of California
Attn: Appellate Court Services
(Civil Case Coordination)
455 Golden Gate Avenue, 5th Floor
San Francisco, CA 94102-3688

Jeremy C. Shafer
MILLER LEGAL, LLP
543 Encinitas Blvd., Suite 111
Encinitas, CA 92024

Dated: January 5, 2018

Chad Finke
Executive Officer/Clerk of the Superior Court

By:



Pam Williams, Deputy Clerk

EXHIBIT E

IN THE FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
PHILADELPHIA COURT OF COMMON PLEAS
TRIAL DIVISION - CIVIL

IN RE: ROUNDUP PRODUCTS LIABILITY
LITIGATION

: May TERM 2022
:
:
: No. 550

Complex Litigation
Center

MAY 11 2022

J. Stewart

ORDER

AND NOW, this 10th day of May, 2022, upon consideration of the Petition to Coordinate Roundup Products Liability Cases (Control No. 22022902; filed under Debra Purnell, et al., v. Monsanto Company, et al., June Term 2021 No. 2347), and any response, the Petition is **GRANTED**.

Accordingly, all currently filed Roundup matters, including those appearing on the attached list of cases, shall be transferred to the Complex Litigation and coordinated under the above-captioned Master Docket. Counsel shall have twenty (20) days in which to submit an agreed-upon Case Management Order No. 1 to the Court. Upon failure to agree, counsel shall notify the Court, and the Court will issue Case Management Order No. 1.

It is further **ORDERED** that all responsive pleading obligations are stayed until responsive pleading deadlines are established under Case Management Order No. 1.

ORDER-In Re: Roundup Products Litigation



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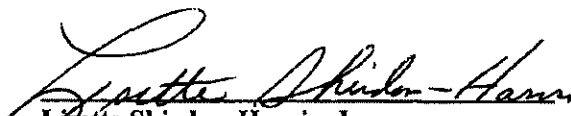

Lisette Shirdan-Harris, J.
Administrative Judge, Trial Division

EXHIBIT 1

	Case Name	Court Term and Number	Plaintiffs' Counsel
1	Brought, Susan	210900079	Feldman Pinto LLC
2	Cole, Stacey F.	210900081	Feldman Pinto LLC
3	Dougherty, William	210900083	Feldman Pinto LLC
4	Martel, Kelly J.	210900084	Feldman Pinto LLC
5	Schandler, Albert F., Jr.	210900085	Feldman Pinto LLC
6	Valente, Stephen	210900086	Feldman Pinto LLC
7	Benn, Maurice	210900923	Feldman Pinto LLC
8	Donatelli, Mark S.	210900924	Feldman Pinto LLC
9	Ford, John	210900926	Feldman Pinto LLC
10	Mattioli, Joseph	210900925	Feldman Pinto LLC
11	Murphy, Daniel	210900928	Feldman Pinto LLC
12	Phillips, Mark S.	210900930	Feldman Pinto LLC
13	Smith, Thomas E.	210900931	Feldman Pinto LLC
14	Stewart, William B.	210900932	Feldman Pinto LLC
15	Taylor, Ronald K.	210900933	Feldman Pinto LLC
16	Wagner, William	210900935	Feldman Pinto LLC
17	Brooks, Holly	210902140	Feldman Pinto LLC
18	Cowden, Lawrence M.	210902141	Feldman Pinto LLC
19	Daywalt, Bernadette	210902142	Feldman Pinto LLC
20	dePrimo, Joseph	210902143	Feldman Pinto LLC
21	Glancy, George, H., Jr.	210902144	Feldman Pinto LLC
22	Goff, Joseph C.	210902145	Feldman Pinto LLC
23	Hample, Michael	210902146	Feldman Pinto LLC
24	Jones, Michael	210902147	Feldman Pinto LLC
25	Lenox, Ronald	210902148	Feldman Pinto LLC
26	May, Marvin	210902165	Feldman Pinto LLC
27	McGlone, Gerard	210902154	Feldman Pinto LLC
28	Miechur, Josephine	210902155	Feldman Pinto LLC
29	Shaffer, William H, Sr.	210902156	Feldman Pinto LLC
30	Sinemus, Lon	210902157	Feldman Pinto LLC
31	Weiss, Elliott	210902158	Feldman Pinto LLC
32	Beckley, Karen	211000081	Feldman Pinto LLC
33	Cipollone, Susan M.	211000082	Feldman Pinto LLC
34	Gavarone, Deborah	211000083	Feldman Pinto LLC
35	Gennett, John	211000084	Feldman Pinto LLC
36	Houk, Terry	211000085	Feldman Pinto LLC
37	Miller, Allison, M	211000086	Feldman Pinto LLC
38	Patton, Gregory	211000088	Feldman Pinto LLC
39	Stitt, Alan	211000089	Feldman Pinto LLC

40	Sullivan, John	211000091	Feldman Pinto LLC
41	White, Barbara	211000093	Feldman Pinto LLC
42	White, Sandra	211000094	Feldman Pinto LLC
43	Wolpert, Michael	211000095	Feldman Pinto LLC
44	Bost, Shirley	211001571	Feldman Pinto LLC
45	Brubaker, Debra	211001572	Feldman Pinto LLC
46	Budd, Thomas, Sr.	211001573	Feldman Pinto LLC
47	Deascenti, Judy	211001574	Feldman Pinto LLC
48	Edwards, Rolin	211001575	Feldman Pinto LLC
49	Hinkle, Jacob	211001576	Feldman Pinto LLC
50	McGee, Joseph	211001577	Feldman Pinto LLC
51	Schechter, Sidney	211001578	Feldman Pinto LLC
52	Sheaffer, Michelle	211001579	Feldman Pinto LLC
53	Irvine, Denise	220102488	Feldman Pinto LLC
54	Federovitch, Francis	220102489	Feldman Pinto LLC
55	Swenson, John	220102490	Feldman Pinto LLC
56	Stoffa, John J.	220102491	Feldman Pinto LLC
57	Rinchart, Martin Grant	220102493	Feldman Pinto LLC
58	Kiehl, Michael Anthony	220102495	Feldman Pinto LLC
59	Perrelli, Michael J.	220102496	Feldman Pinto LLC
60	Boothby, Roger Wayne	220102497	Feldman Pinto LLC
61	Coughlin, Elizabeth on behalf of Patrick Coughlin	220102499	Feldman Pinto LLC
62	Ballantyne, Carl Rigg and Kathleen	211201357	Kline & Specter, P.C./Arnold Itkin
63	Barron, Lucas Lee, Deceased	220102492	Kline & Specter, P.C./Arnold Itkin
64	Brosius, Joyce	220102498	Kline & Specter, P.C./Arnold Itkin
65	Brunskill, Nancy	220200040	Kline & Specter, P.C./Arnold Itkin
66	Caranci, Ernest and Carmela	210602213	Kline & Specter, P.C./Arnold Itkin
67	Deichman, Stephen & Tammy	220200302	Kline & Specter, P.C./Arnold Itkin
68	DiGiacomo, Michael & Jeanne	220200305	Kline & Specter, P.C./Arnold Itkin
69	Garretson, Susan and Thomas	220200033	Kline & Specter, P.C./Arnold Itkin
70	Graham, Dianne	220102501	Kline & Specter, P.C./Arnold Itkin
71	Gunn, Jeffrey	210700239	Kline & Specter, P.C./Arnold Itkin
72	Hamsher, Jeffrey & Shelley	220200310	Kline & Specter, P.C./Arnold Itkin
73	Hodgson, Patricia	220200037	Kline & Specter, P.C./Arnold Itkin
74	Keener, Thomas	220200041	Kline & Specter, P.C./Arnold Itkin
75	Kulp, Benjamin & Tammy	220200312	Kline & Specter, P.C./Arnold Itkin
76	McCrudden, James and Kristina	220200317	Kline & Specter, P.C./Arnold Itkin
77	McGowan, Sean & Brianna	220200036	Kline & Specter, P.C./Arnold Itkin
78	Medway, Marc	210901933	Kline & Specter, P.C./Arnold Itkin
79	Melissen, William	210602578	Kline & Specter, P.C./Arnold Itkin
80	Miller, William and Melissa	220200425	Kline & Specter, P.C./Arnold Itkin
81	Purnell, Lambert (Dec'd)	210602347	Kline & Specter, P.C./Arnold Itkin

82	Schank, Lorraine and Michael	220200034	Kline & Specter, P.C./Arnold Itkin
83	Scott, Tyrone	220200024	Kline & Specter, P.C./Arnold Itkin
84	Shafer, David Lee, Dec'd	220200327	Kline & Specter, P.C./Arnold Itkin
85	Sterling, Kevin & Debra	220200325	Kline & Specter, P.C./Arnold Itkin
86	Tapper, Eugene; & Michele	220200333	Kline & Specter, P.C./Arnold Itkin
87	Varano, Kenneth and Lori	220200343	Kline & Specter, P.C./Arnold Itkin
88	Warwick, Mary and Robert	220200355	Kline & Specter, P.C./Arnold Itkin
89	Wilson, Adia	220200038	Kline & Specter, P.C./Arnold Itkin
90	Wright, Rodney	220200014	Kline & Specter, P.C./Arnold Itkin
91	Zippi, Carlo and Sueann	220200357	Kline & Specter, P.C./Arnold Itkin

220200035

EXHIBIT F

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, CIVIL PART
ATLANTIC COUNTY, NEW JERSEY
DOCKET NO. ATL-L-701-24, et al.
A.D. # _____

MICHAEL RIEHL, et al.,)	
)	
Plaintiffs,)	TRANSCRIPT
)	
v.)	OF
)	
MONSANTO COMPANY,)	MOTION HEARING
BAYER AG, et al.,)	
)	
Defendants.)	

Place: Atlantic County
(Heard via Zoom)

Date: January 7, 2025

BEFORE:

THE HON. DANIELLE J. WALCOFF, J.S.C.

TRANSCRIPT ORDERED BY:

MATTHEW B. SICHERI, ESQ. (Sbaiti & Company NJ LLC)

APPEARANCES:

CHANTAL LEVY, ESQ. (Weitz & Luxenberg)
Attorney for the Plaintiffs

STEPHEN C. MATTHEWS, ESQ. (DLA Piper)
Attorney for the Defendants

Transcriber, Kim Weber
J&J COURT TRANSCRIBERS, INC.
268 Evergreen Avenue
Hamilton, NJ 08619
(609) 586-2311
FAX NO. (609) 587-3599
E-mail: jjcourt@jjcourt.com
Website: www.jjcourt.com

Audio Recorded
Audio Operator, Samira Washington

I N D E XPAGEMOTION TO DISMISS COMPLAINTARGUMENT

By Mr. Matthews	7
By Ms. Levy	10

FURTHER ARGUMENT

By Mr. Matthews	14
By Ms. Levy	16

DECISION

By the Court	20
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Colloquy

1 THE COURT: On the record via Zoom on several
2 matters wherein similar motions were filed. I'm going
3 to go through those dockets and then have you enter
4 your appearances. The first is Brown versus Monsanto
5 Company, et al., ATL-L-27-24. The next case is William
6 Capobianco versus the same defendants, ATL-L-114-24.
7 Next is Joseph Caruso versus the same defendants,
8 Docket Number is ATL-L-699-24. Next, John Chapman
9 versus the same defendants, Docket Number is ATL-L-331-
10 24. Next, Judith Engelbrecht versus the same
11 defendants, Docket ATL-L-115-24.

12 Next, Salvatore Marra, same defendants,
13 Docket Number ATL-L-3229-23. Next, Pasquale Mirra,
14 M-i-r-r-a versus the same defendants, Docket Number
15 ATL-L-29-24. Next, Maryann Troster, individually as
16 administrator of the estate of Donald Marvel, Jr.,
17 deceased versus the same defendants, Docket Number ATL-
18 L-28-24. And then I have Michael Riehl, R-i-e-h-l
19 versus the same defendants, Docket Number ATL-L-701-24.

20 So, counsel for plaintiff, go ahead and enter
21 your appearance, please.

22 MS. LEVY: Chantal Levy from Weitz and
23 Luxenberg on behalf of all of those plaintiffs.

24 THE COURT: Okay. Thank you. And, Mr.
25 Matthews, good afternoon. Go ahead and enter your

1 appearance, please.

2 MR. MATTHEWS: Good afternoon, Your Honor,
3 and happy new year. Stephen Matthews from DLA Piper on
4 behalf of the defendants, Monsanto Company, Bayer
5 Corporation, Bayer U.S., LLC, and Bayer Crop Science,
6 LP.

7 THE COURT: Okay. And then I see there may
8 be some other counsel on that may represent plaintiffs
9 in some other matters, whether they be filed in this
10 county or other counties, as I know that they are filed
11 kind of all over the state.

12 I am going to specifically start my analysis
13 when we get to it by talking about the Michael Riehl,
14 R-i-e-h-l case, the L-28-24 docket, solely because that
15 was the first one that I had picked up before my law
16 clerk was kind enough to make them alphabetical for me.
17 And I wanted to go through everything, and that's
18 complete. To the extent that there's any difference, I
19 will ask plaintiffs' counsel to go through each case
20 and tell me about those.

21 I note initially that I see is the difference
22 between those plaintiffs, aside from one being
23 deceased, but they each have a little bit of a
24 different diagnosis, but all of which are diagnosed
25 with some subtype of a non-Hodgkin's lymphoma. They

1 all have many years, all over 20 years, that they
2 alleged of exposure to Roundup in all but three of
3 those plaintiffs.

4 These three, Capobianco, Chapman, and Mira
5 allege in the opposition brief residential and
6 occupational exposure, where the other ones -- I'm
7 sorry, they do not say residential and occupational
8 exposure. They just say years of use, where everybody
9 else, the other if there's nine of them, the other six
10 of them allege residential and occupational exposure.

11 But, in all of these motions, I read the
12 defendants' motion to dismiss a portion of the
13 plaintiffs' complaint or amended complaint for failure
14 to state a claim upon which relief can be granted filed
15 August 23rd. I reviewed the plaintiffs' opposition
16 that was filed October 1st, 2024. I reviewed the reply
17 brief that was filed by the defendant on October 7.

18 The motion had been adjourned several times
19 for a couple of reasons and I'm just going to put them
20 on the record. First is, the motions were filed in
21 other cases here in Atlantic County that were pending
22 before Judge Porto, who's the presiding judge of the
23 Civil Division, so I always afford deference to him.

24 Secondly, we started getting in consent
25 orders and stipulations of dismissals in Monsanto

1 cases, just as the dismissal that was filed in this
2 case as to Bayer Crop Science, so I wanted to afford
3 times for the parties to work out whatever they were
4 working on behind the scenes.

5 And then third, I started receiving
6 stipulations in motions in other cases, that this
7 motion was actually being withdrawn. So, I was waiting
8 to see if that happened with these particular cases.
9 So, that's what brings us to today. I kind of gave it
10 its own return date.

11 Mr. Matthews, I'm going to start with you,
12 because it's your motion. I took from your filings a
13 couple main takeaways. You want me to dismiss for
14 failure to state a claim upon which relief can be
15 granted, all of the common law portions of the
16 plaintiffs' amended complaint.

17 So, the common law portions of Counts 1 and
18 2, the Count 3, which is negligence, Count 5, breach of
19 implied warranty, and Count 6, the fraudulent
20 concealment count, so that all that would be left of
21 the plaintiffs' amended complaint would be the PLA
22 parts of Counts 1 and 2. And then you also seek to
23 dismiss Count 4, which is for breach of expressed
24 warranty, because your position is that the plaintiff
25 did not sufficiently plead that.

1 And your position is that the NJPLA is a
2 exclusive remedy for harm caused by a product. So, all
3 those common law causes of action are basically
4 subsumed by the NJPLA. And also with regard to Count
5 4, you're telling me, look, Judge, there's a lot of
6 generalizations in this amended complaint. There is
7 not factually specific enough to set forth the elements
8 you need for the breach of expressed warranty claim.
9 For example, the allegations don't satisfy the basis of
10 the bargain requirement, amongst other things.

11 But, those were my main takeaways from your
12 filings. Anything on the same, Mr. Matthews, anything
13 you want to put on the record?

14 MR. MATTHEWS: No, Your Honor, you did cover
15 it very well. I just want to kind of go through the
16 procedural history with you a little bit, because I
17 think that would be helpful.

18 THE COURT: Okay.

19 MR. MATTHEWS: Yeah, obviously, there was
20 hopefully other arguments today, and I withdrew those
21 motions today involving the Motley Rice Firm, because
22 the Motley Rice Firm has actually agreed to amend the
23 complaint to conform to the New Jersey Products
24 Liability Act, which is what we've seen. Not only, you
25 know, obviously Judge Porto's decisions granting the

1 motion to dismiss in part and to rule that the non-New
2 Jersey PLA claims should be dropped. But, that's
3 actually happened in other counties across the state,
4 Gloucester, Sussex, and Passaic.

5 And so, you articulated my argument as well
6 as I would articulate it, Your Honor. I don't need to
7 -- especially if you have any questions. I would note
8 on the expressed warranty piece, especially as it
9 pertains to plaintiff Marvel, there is no -- none of
10 the plaintiffs, there are no specific allegations that
11 they received some expressed warranty and they relied
12 upon it, which is significant for the expressed
13 warranty claim. I'm not saying that the plaintiffs
14 can't amend to articulate it.

15 THE COURT: Right.

16 MR. MATTHEWS: We just haven't stated it here
17 yet. Obviously, it becomes a little more problematic
18 in the Marvel case, 'cause Mr. Marvel has passed. So
19 -- but Your Honor is correct. Our view, which is in
20 line with Judge Porto, Judge Marsala, Judge Pawar, and
21 Judge Morgan, among others, is that these complaints,
22 which are all very similar, you know, they assert the
23 same causes of action and claims, should all be
24 subsumed by the New Jersey Products Liability Act, and
25 the environmental tort exception does not apply here

1 to, you know, Roundup as used in this case, and as, you
2 know, as alleged in the complaints.

3 This is truly a New Jersey Products Liability
4 Act, and as the cases have shown for years now since
5 the passing of the statute, the Products Liability Act
6 controls and all common law causes of actions are
7 subsumed. Except for that expressed warranty count.

8 THE COURT: Okay. Thank you.

9 MR. MATTHEWS: Thank you, Your Honor.

10 THE COURT: Ms. Levy, I took from the
11 opposition a couple of takeaways. You're saying that
12 the NJPLA does not subsume all of the common law causes
13 of action because this case does fall under an
14 exception. It's the environmental tort exception, that
15 based on that exception, the common law causes of
16 action should continue.

17 And you said, look, the defense is assuming
18 that these plaintiffs' exposure was solely from
19 personal use, but six of the nine of them particularly
20 had occupational exposure. And we did plead
21 sufficiently in all of our filings with regard to Count
22 4 that addresses breach of the expressed warranties,
23 because we talked about specific affirmations and
24 promises that the defendant made about the safety of
25 Roundup in product labeling, market materials,

1 advertisements, websites, public statements.

2 I think Page 9 of your opposition brief
3 listed out specific examples that basically, you know,
4 Roundup is being sold as being safer than table salt,
5 and basically non-toxic to mammals. And then with
6 regard to another element of that type of claim,
7 whether affirmations of fact form the basis of the
8 bargain, that's up to a jury.

9 But, I can tell you, Judge, that the
10 plaintiff alleges that these promises become part of
11 the basis of the bargain and they help these plaintiffs
12 when they're deciding whether or not to use Roundup.
13 They're relying on these representations. And these
14 representations, affirmations, whatever term you want
15 to use, Judge, induce people to purchase Roundup.

16 And also we did plead that Roundup doesn't
17 conform to the affirmation, the promise of the
18 description, because it is unsafe for human health and
19 it caused some version of non-Hodgkin's lymphoma in all
20 of these plaintiffs. Anything on the same, anything
21 you want to put on the record, Ms. Levy?

22 MS. LEVY: That's a great summary, Your
23 Honor. I would just like to note two things. First
24 with respect to Judge Porto's decision in the Moreland
25 case, which is our firm's one other case in New Jersey.

1 Judge Porto is in the process of amending his order,
2 because there were some inconsistencies with his
3 rulings during the hearing and --

4 THE COURT: That makes sense to me, because I
5 listened to his decision, and I looked at those orders
6 and I was completely confused by the language of the
7 orders. So, I went back and I relistened twice to make
8 sure I didn't miss anything. So, that makes sense to
9 me. I follow you on that.

10 MR. MATTHEWS: Judge, and we -- and the
11 parties, and I owe Ms. Levy a response to the consent
12 order. We're tweaking -- the opinion is right. Judge
13 Porto confirmed that.

14 THE COURT: Yeah.

15 MR. MATTHEWS: The order -- the execution on
16 the opinion --

17 THE COURT: Right.

18 MR. MATTHEWS: -- was the football.

19 THE COURT: Right.

20 MR. MATTHEWS: And so we're fixing the order
21 to comply with -- to comport with the decision.

22 THE COURT: I want you to know that the
23 briefs were very well written. I did look at filings
24 in other counties and by other plaintiffs to see what
25 their complaints were, what they were alleging, what

1 the brief writing in those were. And I was so confused
2 by Judge Porto's orders that -- and I'm thinking in my
3 mind, if I don't hear something today that makes me
4 change my mind, in my mind, this is the order I'm
5 entering, and I printed it out to go over with you
6 folks to make sure that this didn't happen. So, go
7 ahead, you wanted to tell me something else though.

8 MS. LEVY: Well, so just with respect to that
9 order. So, Judge Porto did sustain our breach of
10 expressed warranty claim and provided us with the
11 opportunity to amend our complaint to further allege
12 that the environmental tort exception applies.

13 So, I just would like to quickly discuss the
14 environmental tort exception. And obviously Your
15 Honor's been very thorough in researching the motion
16 and all of the case law and what not. But, I just want
17 to summarize that, you know, New Jersey courts,
18 including the New Jersey Supreme Court in Fowler in
19 2022 have been very clear as to how to determine
20 whether the environmental tort exception applies. It's
21 -- and in Fowler, the Court specifically said, asbestos
22 claims fall within the category of the environmental
23 tort exception, because such cases largely involve
24 workers' exposure to contaminated air.

25 So, whether a product falls under the

1 environmental tort exception requires examining the
2 nature of the products itself, not the specific
3 plaintiffs' exposure or their specific use. It's the
4 nature of the product. Is the product primarily
5 intended for personal consumption or is it primarily
6 intended for occupational or industrial use? And then
7 what are the primary methods of exposure for the people
8 who are exposed to the products at issue?

9 Both answers here are environmental and
10 commercial. Roundup was created for agricultural use
11 in the 1970s. It's -- it currently only persists for
12 agricultural and occupational use for landscapers.
13 Monsanto has actually gotten rid of glyphosate, which
14 is the active ingredient in Roundup for home use. So,
15 it's no longer used for personal consumption. And for
16 the past 50 years it's only been personal -- the
17 personal use of Roundup, the home use of Roundup has
18 only been a tangential use of the product.

19 The main source of revenue for Roundup has
20 always been agricultural and occupational use. And
21 that seems true for the main method of exposure. Most
22 people in society at large, not just those who use
23 Roundup, are exposed to Roundup through ambient
24 environmental exposure. It's in, as we stated in our
25 complaint, Roundup and glyphosate are in the vast

1 majority of the population's urine, because we're all
2 exposed to it through food, even if we're not spraying
3 it in our backyards and are not farm workers.

4 So, for that reason, I think the, you know,
5 the case law is clear. We don't have to look at
6 specific plaintiffs and their use, so we would be more
7 than happy to amend our complaints to specify their
8 specific use and their specific exposures. And we
9 could also further elaborate upon how primary exposure
10 in society is through ambient environmental exposure.

11 But, I think our complaint already does that,
12 and I think it readily satisfies the standard set forth
13 by the New Jersey Supreme Court and other courts.

14 THE COURT: Okay.

15 MS. LEVY: That's all I have, Your Honor.

16 THE COURT: Thank you. Anything you heard,
17 Mr. Matthews, that you'd like to reply to?

18 MR. MATTHEWS: Just two quick things. One
19 is, a lot of those statements about the product and the
20 revenues and what have you are in the record, and
21 therefore they really can't be part of this analysis
22 today. But, also, you know, if you go -- if Your Honor
23 would -- I'm not sure, I think we sent it to you. But,
24 you know, Judge Morgan's analysis of this issue is very
25 thorough. And --

1 THE COURT: I am familiar with that.

2 MR. MATTHEWS: Yeah. And so, you know, it's,
3 you know, and it really kind of links back to before
4 this all began, right, with In re Lead Paint. You
5 know, obviously, lead paint was used ubiquitously.
6 But, you know, in commercial settings and in
7 residential settings it was, you know, people could
8 make the same allegations about, you know, paint chips
9 and paint chips or what have you never having used it.

10 And there the New Jersey Supreme Court
11 specifically said the New Jersey Products Liability Act
12 applies. And therefore that exception doesn't fit the
13 mold. And so, just as the other judges have done, we'd
14 ask that Your Honor dismiss the common law causes of
15 action. And it's -- and obviously it has to be without
16 prejudice, although we were all a little surprised by
17 Judge Porto's order.

18 But, if Your Honor is going to allow for an
19 amendment, we just -- just so we can keep docket
20 control, the only thing I would ask is that we put in a
21 time frame if they're going -- if Your Honor's inclined
22 to grant my motion today and if the plaintiffs do want
23 to proceed, just for docket control purposes, we'd ask
24 that they have 30 days or what have you to amend so
25 that we're not -- we're trying to figure out what we're

1 supposed to be answering, and I don't want to have --
2 if we don't do that, then the plaintiffs will be
3 getting notices of lack of prosecution, and then we'll
4 be sending in a whole bunch more communications to the
5 Court, which neither Chantal or I probably want to do,
6 so --

7 THE COURT: I understand.

8 MR. MATTHEWS: Thank you, Your Honor.

9 MS. LEVY: Your Honor, if I may --

10 THE COURT: Sure.

11 MS. LEVY: -- briefly just address the Lead
12 Paint decision? So, I believe that Lead Paint is
13 perfectly consistent with plaintiffs' argument. In the
14 decision, the Supreme Court says asbestos claims by and
15 large fall under the environmental tort exception
16 because they involve work place exposure to
17 contaminated ambient air, in like manner exposure to
18 fungicides and similar substances in a work place
19 environment fall outside of the PLA.

20 And then the Court distinguishes lead paint,
21 and then cleaning products that you would use at home
22 that might seep into your skin through a cut saying
23 that those sorts of products the consumers generally
24 use in their homes and in private buildings essentially
25 remain consumer products, rather than products used in

1 an industrial context.

2 So, the Court is distinguishing fungicides
3 and asbestos and environmental exposures from products
4 that are primarily used and exposed to at home. So,
5 respectfully, I think it's perfectly consistent with
6 the Court, the Supreme Court's decision in Fowler and
7 in other case law suits.

8 THE COURT: I have a separate question to ask
9 you. What portion -- are you telling me that Judge
10 Porto is having you amend your complaint with regard to
11 something specific? He's affording time for that?

12 MS. LEVY: So, he said that we can more
13 specifically plead whether -- I mean, I wasn't exactly
14 clear, because it wasn't clear from the decision. But,
15 I think we can more specifically plead how our
16 plaintiffs were exposed to Roundup and also the
17 environmental tort exception argument, is my
18 understanding, that he's allowing for us to clarify
19 both of those arguments in the complaint, like how it's
20 used for industrial, commercial purposes and primary
21 exposure as environmental.

22 THE COURT: Is that your understanding, Mr.
23 Matthews?

24 MR. MATTHEWS: You know, I'm not -- I'm not
25 sure. I think -- 'cause -- what I do know is simply

1 this, the plaintiffs are the master of their complaint.
2 And the complaint was dismissed without prejudice. So,
3 you know, I don't think that the Court has, you know,
4 asked them for an amendment or instructed them to do
5 it. They're allowed to.

6 THE COURT: Sure.

7 MR. MATTHEWS: And so, obviously, you know,
8 until I see what they're going to allege in the amended
9 complaint, you know, either we're going to answer or
10 we're going to be back here doing another round of
11 motions to dismiss.

12 THE COURT: So, Judge Porto dismissed all the
13 common law causes of action without prejudice, even
14 though the order --

15 MR. MATTHEWS: Correct.

16 THE COURT: -- says with prejudice?

17 MR. MATTHEWS: Correct.

18 THE COURT: And what about the Count 4, the
19 expressed warranty?

20 MR. MATTHEWS: He has allowed the expressed
21 war -- I (indiscernible). He's allowed the expressed
22 warranty to proceed.

23 THE COURT: Right.

24 MR. MATTHEWS: Obviously --

25 THE COURT: That's what I thought. Yeah,

1 okay. I just wanted to make sure --

2 MR. MATTHEWS: The only issue I would say --

3 THE COURT: -- based on whatever happened
4 after that I had what was going on in my mind.

5 MR. MATTHEWS: That is still the case and
6 obviously we'll reraise that at the appropriate time at
7 the summary judgment phase. The only aspect of this, I
8 would say is unique, is to the Marvel case, where there
9 is no, you know, there is no plaintiff, right, who
10 could allege that they received the warranty.

11 THE COURT: Okay.

12 MR. MATTHEWS: And at the end of the day, an
13 expressed warranty has to be received. It's not
14 general. It's not just statements that are made. It
15 has -- someone has to stand up and say, I received
16 that, I received that. And we won't have that in a
17 normal case. But, you know, that's just -- as far as
18 I'm concerned, being in this case, it's splitting
19 hairs.

20 THE COURT: Okay.

21 MR. MATTHEWS: It's not going to impact how
22 we proceed in defending the case or what have you, so I
23 just --

24 THE COURT: Okay.

25 MR. MATTHEWS: -- explained that.

1 THE COURT: All right. Thank you both very
2 much. In the plaintiff Riehl amended complaint, he
3 asserts that he's a New Jersey resident, as do all the
4 other complaints. He alleges that he was diagnosed
5 with lymphocytic leukemia. Other plaintiffs allege
6 different things. I wrote myself, like, a whole list
7 of them, MALT lymphoma, large B-cell lymphoma.
8 Regardless of what the actual diagnosis is they all
9 allege to be subtypes of non-Hodgkin's lymphoma.

10 Around various years, plaintiff Riehls was
11 diagnosed in 2022. Plaintiff Riehl claims to have used
12 defendant Monsanto's Roundup products on a regular
13 basis for 44 years, both at his home and through his
14 work. And he alleges that the defendants as the
15 manufacturers and sellers of Roundup, which is a
16 glyphosate-based herbicide product are the proximate
17 cause of the plaintiff's diagnosis. Likewise, with all
18 the other plaintiffs we're talking about here today.

19 I did review 4:62(e). It's the rule that
20 governs a motion to dismiss for failure to state a
21 claim upon which relief can be granted; Printing Mart,
22 Morristown v. Sharp Electronics Corp. is our New Jersey
23 Supreme Court case. It's a seminal case for going over
24 the standard for that type of motion. It's found at
25 116 N.J. 739. It's from 1989.

1 It tells me that the Court has to search the
2 complaint in depth and with liberality to ascertain
3 whether the fundamental cause of action may be gleaned
4 from even an obscure statement of claim with
5 opportunity to amend if necessary. That's the without
6 prejudice part.

7 I am not to be concerned with whether or not
8 the plaintiff can prove the allegations. I have to
9 take the allegations as true, along with every
10 reasonable inference of fact that can be drawn
11 therefrom. And I have to do a painstaking examination
12 of the complaint with a generous and hospitality
13 approach.

14 I did review the plaintiff Riehl's amended
15 complaint filed July 9th, 2024 and the complaints for
16 the other dockets. I also went back and took a look at
17 the New Jersey Products Liability Act, N.J.S.A. 2A:58C.
18 I went through lots of the sections. Section 2C:2
19 establishes the sole method to prosecute a product
20 liability action relating the harms caused by products,
21 except for harm caused by a breach of an expressed
22 warranty.

23 I have reviewed the various definitions found
24 throughout the PLA, such as the definition of harm, the
25 definition of adequate warning. I went and looked at

1 the environmental tort exception found in N.J.S.A.
2 2A:58C-6. I reviewed the case law that was in the
3 motion filing of the papers. In my mind, when I follow
4 the law from the court rule, the case law and the
5 statutes, I do find that the plaintiffs' common law
6 claims should be dismissed, because the PLA provides
7 the exclusive remedy for the harm caused by a --
8 because a PLA provides that the PLA is the exclusive
9 remedy for harm caused by a product.

10 N.J.S.A. 2A:58C-1, B-3 states, these actions
11 include any claim or action brought by a claimant for
12 harm caused by a product, irrespective of the theory
13 underlying the claim, except actions for harm by breach
14 of an expressed warranty.

15 So, the PLA, there's an Appellate Division
16 case, Tirrell. It's cited in every -- every one of
17 these types of motions; Tirrell v. Navistar
18 International, Inc., 248 N.J. Super. 390. It's an
19 Appellate Division decision. Cert was denied by the
20 Supreme Court, 126 N.J. 390 in 1991. The Court said
21 the PLA no longer recognizes a negligence or breach of
22 implied warranty count as a separate claim for harm
23 caused by a defective product or in adequate warning.

24 So, in my mind, the plaintiffs' common law
25 claims must be dismissed unless an exception applies.

1 The plaintiff argues that his claims fall under the
2 environmental tort action exception. That's N.J.S.A.
3 2A:58C-6. The statute at 2A:58C-1, B-4 defines this as
4 a civil action seeking damages for harm where the cause
5 of the harm is exposure to toxic chemicals or
6 substances, but does not mean actions involving drugs
7 or products intended for personal consumption or use.

8 For the cases where occupational exposure, as
9 well as residential or personal exposure is alleged,
10 which is all but Capobianco, Chapman, and Mira, I
11 specifically find that on the complaint we have that
12 the environmental tort exception does not apply. I do
13 not take credit for some of the decision language,
14 which I am about to give you. The majority of it came
15 from Judge Morgan's decision in, I believe that was
16 Gloucester County.

17 He explored the legislative intent behind the
18 NJPLA. The exception for an environmental tort refers
19 to pollution. I agree with him on that. He goes over
20 the statement to Senate Bill Number 2805 and the
21 exception was intended to encompass actions involving
22 pollution of ambient air and of streams and other
23 bodies of water, dumping of toxic waste, and similar
24 activities ordinarily regarded as environmental torts.

25 The PLA clarifies in N.J.S.A. 2A:58C-1, B-4

1 that environmental tort action does not apply to
2 products intended for personal consumption or use. In
3 2007 our New Jersey Supreme Court reviewed the NJPLA
4 and that statement to Senate Bill Number 2805 in In re
5 Lead Paint Litigation, found at 191 N.J. 405.

6 The New Jersey Supreme Court held that lead
7 paint was not included within the environmental tort
8 action exception, because it was ordinarily for
9 personal consumption and use. The paint was a
10 household product and consumers were targeted for
11 personal use of the paint, even though people used it
12 in the commercial setting as well. And painters could
13 go out there and use that lead paint.

14 For the plaintiffs in the cases presently
15 before the Court where personal and occupational
16 exposure is asserted, again, all but Capobianco,
17 Chapman, and Mira, I specifically find that the
18 environmental tort action exception does not apply,
19 because the product Roundup is intended for personal
20 use. Just like the paint in the case I just mentioned,
21 to be used by homeowners in a work setting, similarly
22 Roundup was marketed and could be used in the work
23 setting, but it could also be used in the personal
24 setting.

25 Many of the plaintiffs in the cases before me

1 used Roundup for personal use for well over 20 years.
2 The use of Roundup through work does not take away that
3 Roundup was still used for consumer use. So, there is
4 no basis for the environmental tort action exception.

5 I agree with Judge Morgan that the
6 plaintiffs' citation to cases where the exception did
7 apply are factually distinguishable, such as Macrie v.
8 SDS Biotech Corp., 267 N.J. Super. 31, an Appellate
9 Division case from 1931, because the product was sold
10 purely for industrial use and was not to individual
11 consumers.

12 Also the Macrie plaintiffs were not the ones
13 that were using the product. It was a farmer that had
14 used the product on, I think it was squash or
15 something, and then the plaintiffs were repackaging the
16 produce and that's when the particles were released
17 into the air and caused the Macrie plaintiffs harm.
18 So, that's factually distinguishable. So, I am going
19 to dismiss this without prejudice. The common law
20 claims, that we'll -- I'll go over that language of the
21 order.

22 Both parties concede that the claim for
23 breach of expressed warranty is exempt from the scope
24 of the NJPLA. That's Count 4 in the amended complaint.
25 I agree with the plaintiff using the standards I've

1 already gone over when I reviewed their amended
2 complaint that they don't use conclusory terms. I can
3 glean a cause of action in Count 4 that alleges a
4 breach of expressed warranties.

5 For example, in the amended complaint
6 language, they talk about objective scientists and
7 regulatory agencies agreeing that there's an absence of
8 evidence establishing carco -- carcinogenicity or
9 genotoxicity of glyphosate in Roundup. Glyphosate was
10 a technological breakthrough that could kill weeds
11 without causing harm to people or to the environment.
12 Roundup is safer than table salt and practically non-
13 toxic to mammals, birds, and fish.

14 Via videos on YouTube and other social media
15 platforms, Roundup Weed and Grass Killer products won't
16 harm anything but weeds. Glyphosate works on an enzyme
17 found in plants, but not in humans. Roundup's safety
18 is comparable to other common household products, such
19 as chocolate, apple cider vinegar, and coffee.

20 So, my order is going to grant the motion in
21 part and deny it in part. It's going to say that
22 defendants', plural, defendants' motion to dismiss the
23 common law portions of Counts 1 and 2, and to dismiss
24 Counts 3, 5, and 6 is granted. So, all of those are
25 dismissed without prejudice. And then it says,

1 defendants' motion to dismiss Count 4 of the amended
2 complaint is denied.

3 I want to address specifically the complaint
4 of Mr. Marvel. As I said at the outset, in my mind,
5 that's just a little bit different, because he is the
6 only case I have currently before me where the -- where
7 the person is deceased, and it's the estate's claim. I
8 understand the distinction that Mr. Matthews is making
9 to me, and I'm going to distinguish Marvel now.

10 What I am going to just say on the record is,
11 I don't know that -- and I'll be honest with you, I
12 didn't factually specifically look at it in a
13 differential other than, you know, I looked at the
14 general parts of the complaints where the general
15 allegations were made. And I didn't specifically think
16 about that when I was reviewing the motion on behalf of
17 Mr. Marvel, that because he is deceased, how can he say
18 he relied?

19 So, I am going to enter one order today that
20 is different than the rest, and that is going to be Mr.
21 Marvels (sic). And on Mr. Marvels, I am going to put a
22 specific portion that says defendant's motion to
23 dismiss Count 4 of the amended complaint is granted.
24 It's going to say as to Mr. Marvel, the estate's case,
25 Marvel's Count 4, is dismissed without prejudice.

1 And, Ms. Levy, it's going to give 30 days to
2 file an amended complaint with regard to Count 4. So
3 that if you have a way to clear some of that up, you
4 will have the opportunity to do so with regard to Mr.
5 Marvel. Now, I know that was all a mouthful and I
6 thank you for living through that for me. But, Mr.
7 Matthews, do you understand my ruling? Do you have any
8 questions?
9 MR. MATTHEWS: I understand your ruling, Your
10 Honor, and I have no questions.
11 THE COURT: Ms. Levy?
12 MS. LEVY: I have two questions, Your Honor.
13 So, Mr. Marvel, when his complaint was first filed, the
14 allegations were -- he was alive at the time --
15 THE COURT: Ah.
16 MS. LEVY: -- and the allegation for
17 predicate -- yes.
18 THE COURT: Okay.
19 MS. LEVY: His case was -- his complaint was
20 amended to substitute in his estate.
21 THE COURT: Okay.
22 MS. LEVY: So --
23 THE COURT: Do you have that complaint up in
24 front of you? Do you -- that you can direct me to some
25 language where it says he relied?

1 MS. LEVY: I mean, it's the same language as
2 all the other.
3 THE COURT: It's the same language as all the
4 other? There was no differential in that? Okay. All
5 right. I did not realize that. Mr. Matthews, having
6 heard that, do you have anything you want to tell me?
7 MR. MATTHEWS: Well, Your Honor, I think that
8 the, you know, the -- it's still -- it still gets, I
9 think -- did we lose Your Honor?
10 THE COURT: No, I'm here. No, I don't why
11 that went. My video still shows as on. I don't know
12 why the screen went blank on that. I apologize for
13 that.
14 MR. MATTHEWS: No, don't apologize. Don't
15 apologize, Judge. That's how I've been doing this
16 (indiscernible). So, we could just, you know -- we
17 could just call it a wrap.
18 THE COURT: Okay.
19 MR. MATTHEWS: But, you know, there has to be
20 -- there has to be a way that the case can proceed.
21 And eventually these plaintiffs will all be --
22 THE COURT: Yeah.
23 MR. MATTHEWS: -- (indiscernible) --
24 THE COURT: Yeah.
25 MR. MATTHEWS: -- to make that assertion.

1 THE COURT: Yeah.
2 MR. MATTHEWS: That they have specific
3 reliance. And we just can't have that with Mr. Marvel.
4 And that's -- unless they prepared a statement for him,
5 you know --
6 THE COURT: Yeah.
7 MR. MATTHEWS: I don't know.
8 THE COURT: I understand.
9 MR. MATTHEWS: So --
10 THE COURT: You're, like, where do we go from
11 here, Judge, if there's not already something that we
12 don't have yet --
13 MR. MATTHEWS: Something in the record --
14 THE COURT: -- in terms of discovery that --
15 MR. MATTHEWS: -- (indiscernible) --
16 THE COURT: Sure. Sure.
17 MR. MATTHEWS: Correct, yeah.
18 THE COURT: I get that. All right. This is
19 what I'm going to do. This is what I'm going to do. I
20 am going to enter the same order for Mr. Marvel's case
21 that I'm entering in all the other ones, which says,
22 the motion to dismiss Count 4 is denied. I did not
23 realize that he was still around when the complaint was
24 filed. So, we don't know, 'cause we don't have that
25 discovery.

1 And I'm sure, you know, Mr. Matthews, the
2 motion for summary judgment can be filed at any time,
3 even before discovery is concluded. Maybe a simple
4 request for admissions or something flushes that out.
5 Or however you want to handle that. But, for now, and
6 I'm looking at it under 4:62(e), when I have to say,
7 under a painstaking, thorough review, and with the most
8 liberality, taking everything as a yes and all
9 inferences that can be drawn therefrom, is there enough
10 there? The answer in my mind is yes. And then of
11 course we'll see where discovery takes us. I
12 understand what you're saying for moving it along.
13 So, I am going to enter the same order in
14 all, that the common law complaints are dismissed
15 without prejudice, that the motion to dismiss Count 4
16 is denied. Now, having said all that, anything
17 further, Mr. Matthews?
18 MR. MATTHEWS: No, nothing from me, Your
19 Honor.
20 THE COURT: Okay.
21 MR. MATTHEWS: I still -- I still understand.
22 THE COURT: Okay. Ms. Levy, anything
23 further? Thank you for clarifying that for me.
24 MS. LEVY: No thank you, Your Honor. And so,
25 with respect to the environmental tort exception,

1 should plaintiffs -- I mean, would it make a difference
2 to Your Honor if we more specifically plead that
3 Roundup is -- has always been since its inception,
4 primarily an agricultural and industrial product? And
5 that the personal consumption and home use has only
6 been tangential use --

7 THE COURT: Right.

8 MR. LEVY: -- of Roundup?

9 THE COURT: So, I'm not going to speculate
10 now on what any other future decisions I make would
11 hold, 'cause obviously I'd need them briefed and I
12 would need to review on them. In my mind, based on
13 what I have before the Court, that exception doesn't
14 apply and those counts are dismissed.

15 Now, obviously, you know the court rule on if
16 you're trying to file an amended complaint. You either
17 get consent or you don't, and you have to file a
18 motion, and we take it from there. And there's going
19 to be opposition, and I would need to see on what basis
20 those -- those things are being alleged, because right
21 as you're talking, Mr. Matthews is saying that, Judge,
22 that's not accurate, right? So, you know, I can't rule
23 on future things.

24 But, normally when I do a motion to dismiss,
25 if I really think there's an opportunity there, I will

1 usually say, and you have 30 days and put a timeline
2 in, as I was going to do on Mr. Marvel's case on that
3 other Count 4. But, I'm not putting that in there,
4 because I don't have a clue as to how you would change
5 that under the analysis I've seen, particularly by
6 Judge Morgan. And I have looked at the Fowler case and
7 I have looked at the In re Lead Paint case that would
8 come under that. But, you're more than welcome to file
9 whatever you would like to file.

10 MR. LEVY: I understand. Thank you, Your
11 Honor.

12 THE COURT: Okay. Thank you both for jumping
13 on today. I will get my orders up. And thank you for
14 letting me read those orders to you, because I was a
15 little confused when I did read the other ones. I also
16 have another question just for you folks. I know that
17 when you apply for the multi-litigation MCL, and that
18 was declined, and now so you're doing all this kind of
19 in other, you know, courts and around the way, and I
20 know that on each individual file you need to, you
21 know, protect your interest in that file.

22 Judge Porto and I have other cases similar to
23 yours, where they're not MCLs, but they're the same
24 complaints, they're the same defendants, different
25 plaintiffs. And I will usually always defer to him

1 each time just because he is the presiding judge of
2 Civil, so you will always see me bump it past whenever
3 he is deciding his motion. I just give you a heads up
4 on that.

5 'Cause in these other cases, every time
6 there's a discovery motion or what have you, they
7 started bumping them down the line. But, this is what
8 I ask that you please do not do. I started to notice
9 that in those cases, I started getting discovery
10 motions that encompass both, but they were filed in
11 mine and not Judge Porto's. You know, we had a little
12 discussion about it and they were, like, ah, yeah, and
13 I felt, like, okay, they should -- if they're going to
14 be filed, they should be filed in both or with Judge
15 Porto's first, 'cause I will always defer to him.

16 So, saying you're take the deposition of a
17 Monsanto representative and Mr. Matthews says, do not
18 answer that question, and you file a motion and say,
19 let us come back and take his dep, there was no
20 privilege asserted, he should have to answer that.
21 Don't just file that in front of me. If you were
22 deposing that Monsanto representative for all of the
23 plaintiffs, make sure it gets filed either in front of
24 Judge Porto or at least in front of both of us, so that
25 I'm not stepping on his toes. I'm very low man on the

1 totem pole here in Civil, and he's the big cheese. So,
2 I just wanted to bring that up to you folks, and I
3 appreciate if you could adhere to that.

4 MR. MATTHEWS: That shouldn't be a problem,
5 and I'm hopeful that we won't have that many of those
6 kinds of speech that we have to bring. But, of course
7 if we do, we'll abide by that, Your Honor.

8 THE COURT: Yeah, like, we don't need them
9 filed in 500 motions so that it's filed like in the
10 seminal one. And then you can say, I just want to
11 preserve the record and, you know, do something from
12 there. But, you know, then our motion list goes from
13 100 to 150, and I got to adjourn mine and wait for his.
14 It gets kind of crazy. So, I just wanted to talk to
15 you folks about that for a moment.

16 But, thank you for your writings. They were
17 very succinct and I appreciate that. I'll get those --
18 I'll get an order for each of those cases, I think
19 there's nine of them, within the next half hour up onto
20 eCourts. Have a great rest of your day, everybody.

21 MS. LEVY: Thank you, Your Honor.

22 MR. MATTHEWS: Thank you, Your Honor

23 THE COURT: Thank you.

24 * * * *

C E R T I F I C A T I O N

I, KIM WEBER, the assigned transcriber, do hereby certify the foregoing transcript of proceedings on audio, playback numbers from 1:03:08 to 1:43:27, is prepared in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate non-compressed transcript of the proceedings as recorded, and to the best of my ability.

/s/ Kim Weber

KIM WEBER

APPROVED BY:

/s/ Carole Ritardi

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