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Monsanto Settles Roundup Case Prior To Trial Start In Fla.

By **David Minsky**

Law360, Fort Lauderdale, Fla. (October 31, 2022, 4:19 PM EDT) -- A Florida man seeking to hold Monsanto liable for causing his cancer, due to his use of the Roundup weed killer product, reached a settlement with the company just days before trial was scheduled to begin Monday.

Broward County resident Richard Wyzik, who filed the case in the Seventeenth Judicial Circuit Court, settled with Monsanto over the weekend, according to his attorney, Juan Bauta of The Ferraro Law Firm PA.

Bauta told Law360 that the terms of the settlement are confidential but noted his three Monsanto cases filed in Miami-Dade County's Eleventh Judicial Circuit are still scheduled for trial, including one in February 2023.

"The clients are happy, obviously, but you know unfortunately [Wyzik]'s not doing well," Bauta said.

Before the settlement, the Broward County case was scheduled to go before Judge Patti Englander Henning and was expected to last at least three-and-a-half weeks, according to a joint trial stipulation filed in September.

Bayer, Monsanto's parent company, has denied any wrongdoing and wrote in an email to Law360 that it will continue to defend itself in court.

"Bayer has won five Roundup cases in a row at trial and will confidently defend future cases, as well," a company spokesperson said. "At the same time, when it is strategically advantageous, the company will consider settlements of individual cases as it has done in Wyzik."

The case was initially filed in February 2021 and included Wyzik's wife, Zina, as a plaintiff. Wyzik's son and daughter were added as plaintiffs later in the suit, and all three also sought to hold Monsanto liable for his cancer. Wyzik's wife accused Monsanto over loss of consortium due to her husband's loss of income and the medical expenses he received from treating his cancer, according to the complaint.

In the initial complaint, the defendants included Monsanto, Home Depot USA Inc. and Margate Blvd. Hardware Store Inc., who were accused of negligence and failure to warn, while the plaintiffs also accused Monsanto of fraudulent concealment and liability over a defective product.

Wyzik alleged in his suit that he used Roundup products as a liquid herbicide at various job sites for his landscaping business, Greener Image Inc., between 2001 and 2020 and applied them through a portable sprayer, which exposed him to the chemical.

As a result of the exposure, Wyzik said he was diagnosed with non-Hodgkin's lymphoma in January 2021, a type of cancer which left him with "permanent and debilitating injuries," according to the complaint.

The complaint listed the Roundup ingredient glyphosate, a chemical that the World Health Organization identified as a probable carcinogen in 2015 and which Wyzik alleged caused his cancer.

Wyzik sued Home Depot and the Margate Blvd. Hardware Store Inc., alleging in his complaint that they sold the glyphosate-containing Roundup and never warned him of the dangers of using the

product.

Margate Blvd. Hardware Store Inc. and Home Depot were dismissed from the case in July and August 2022, respectively.

Additionally, Wyzik accused Monsanto of engaging in a "pattern of discrediting and suppressing" scientific evidence of Roundup's potential carcinogenic effects, according to the stipulation.

In the stipulation, Monsanto disputes that glyphosate exposure can increase a person's risk for cancer and that it also suppressed scientific evidence.

In a June motion, Monsanto sought to exclude the opinions of several plaintiff expert witnesses, including Dr. William R. Sawyer, identified as a forensic toxicologist who has offered testimony in prior Roundup cases, citing insufficient scientific evidence that Roundup is a cancer "promoter," according to the stipulation.

The plaintiffs sought to exclude Monsanto expert witnesses, including J. Scott McElroy, saying in their June motion that methods of applying glyphosate-based products "is totally irrelevant" to the case.

The plaintiffs are represented by Juan P. Bauta II and Daniel J. DiMatteo of The Ferraro Law Firm PA.

Monsanto is represented by Anthony N. Upshaw and Melissa R. Alvarez of McDermott Will & Emery LLP.

The case is Richard Wyzik et al. v. Monsanto Co., case number CACE-21-002871, in the 17th Judicial Circuit Court of the State of Florida.

--Editing by Dave Trumbore.

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