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Food & Consumer Packaged Goods Litigation

Notable Ruling: Glyphosate Verdict—Implications for Food Litigation

As you all know, the Northern District of California jury found earlier this week that Monsanto's Roundup herbicide product was a "substantial factor" in causing a plaintiff's non Hodgkin lymphoma. The defendants and industry were all very optimistic that the trial, which focused solely on causation and not knowledge or company conduct, would result in an impartial scientific analysis. Unfortunately, the jury ignored a very substantial body of literature that glyphosate, the active ingredient in Roundup, is safe. It also ignored the conclusions of virtually every regulatory or public health group, including the Environmental Protection Agency (EPA), subcommittees off the World Health Organization (WHO) and the European Food Safety Authority (EFSA). Unfortunately, hundreds of similar cases are pending and a state court jury in Alameda also rendered a verdict against Monsanto. With all that said, these cases should not be considered a threat to the food industry. The levels of glyphosate in processed food, even those with oats and other crops harvested with glyphosate, is well below the safety level set by the EPA, and even below the level set under the Department of Agriculture's standards for organic food. These federal standards should pre-empt any consumer lawsuits. Moreover, no reasonable consumer would be concerned when the levels detected are of such insignificance. Indeed, except in a few instances, plaintiff consumer protection lawyers have abandoned challenges based on the mere presence of glyphosate in foods and we expect them to continue to look for other avenues to challenge the food industry.

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