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March 3, 2026

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WLF Urges Supreme Court to Reverse Missouri Ruling Allowing Jury Override of Federal Pesticide Labels *(Monsanto Co. v. Durnell)*

“State juries cannot punish businesses for merely adhering to federal law by including EPA-approved labels on their products.”

— Cory Andrews, WLF General Counsel & Vice President of Litigation

WASHINGTON, DC—Yesterday Washington Legal Foundation (WLF) urged the Supreme Court to reverse the Missouri Court of Appeals’ decision allowing state-law liability for failing to add a carcinogen warning to an EPA-approved pesticide label. WLF joined the U.S. Chamber of Commerce, the American Chemistry Council, the Pharmaceutical Research and Manufacturers of America, and the Product Liability Advisory Council on the amicus brief, which was authored by Goodwin Proctor’s Willy Jay and Cassandra Snyder.

The case arises from a Missouri jury’s \$1.25 million verdict in favor of John L. Durnell, who alleged his non-Hodgkin’s lymphoma resulted from exposure to Monsanto’s Roundup containing glyphosate. Durnell claimed Monsanto should have warned that glyphosate is carcinogenic, even though the EPA has repeatedly determined it is “not likely to be carcinogenic to humans,” required labels without such warnings, and explicitly rejected adding a cancer warning as false and misleading. The Missouri Court of Appeals upheld the verdict, rejecting Monsanto’s preemption defenses under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

In an amicus brief supporting Monsanto, WLF argues that state tort law cannot flout express preemption provisions in federal law by undermining the congressionally mandated, science-based regulation of herbicide labeling. Imposing state tort liability for failing to provide a label warning that EPA has determined is false and misleading, and thus should not be provided, would place manufacturers like Monsanto in an impossible quandary. They either will be held liable under state tort law for complying with federal law, or they must face federal civil or criminal liability for knowingly violating federal law to comply with state tort law.

Celebrating its 49th year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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