



Bayer AG
Communications
51368 Leverkusen
Germany
Phone +49 214 30-1
www.bayer.com/en/media

News Release

Bayer announces filing of petition to U.S. Supreme Court for review of *Durnell Roundup™* case

Company argues circuit split on cross-cutting question of federal preemption warrants review

Leverkusen, April 4, 2025 – Today Bayer – through its indirect subsidiary Monsanto – filed its [petition](#) for a writ of certiorari with the U.S. Supreme Court in the *Durnell* case, just three business days after the Missouri Supreme Court's decision created a pathway toward the high court's review. The company argues that a split among federal circuit courts in the Roundup™ personal injury litigation, on the cross-cutting question of whether federal law preempts state-based failure-to-warn claims, warrants review and resolution by the country's top court. The stakes could not be higher as tens of thousands of Roundup™ cases are pending in state and federal courts, all of which rest on state-based failure-to-warn claims that should be preempted by federal law. The ongoing litigation also threatens Monsanto's ability to continue to supply glyphosate-based products to farmers and other professional users.

The security and affordability of the food supply depend on having innovative agricultural tools like Roundup™ available to farmers with uniform and science-based labels that everyone in the stream of commerce can rely on, as dictated by federal law. Yet the litigation industry is spending hundreds of millions of dollars, based on a single outlier report that is now a decade old, in an effort to punish the company for marketing a product without a cancer warning, even though the EPA and every other health regulator worldwide that has assessed the safety of glyphosate, the active ingredient in Roundup™, has found that it does not cause cancer. A favorable ruling by the Supreme Court could largely curtail this litigation.

The company argues that the Third Circuit Court of Appeals was correct when it unanimously held in *Schaffner* that the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) expressly preempted the plaintiff's failure-to-warn claim, because a jury verdict in his favor would impose labeling requirements different from what EPA requires in administering FIFRA. FIFRA's express preemption clause declares that a state 'shall not impose or continue in effect any requirements for labeling...in addition to or different from those required' under federal law.

In *Durnell*, the jury's verdict rests solely on the claim that Missouri law requires the company to warn that Roundup™ is carcinogenic, the precise warning that EPA rejects. This claim is plainly in conflict with the product label EPA approved under federal law, based on the agency's rigorous scientific assessment, and cannot be changed without agency approval. Thus, it is expressly preempted.

The 9th and 11th Circuits and Missouri's intermediate appellate court have reached different conclusions on the preemption question and the petition argues that state and federal courts require guidance that only the U.S. Supreme Court can provide. The petition states that courts in *Hardeman*, *Carson* and *Durnell* erred because they ignored EPA regulations that require agency approval in advance of any label change, especially precautionary statements regarding human health. Thus, a state-based requirement to provide a cancer warning not currently on the EPA approved label is 'in addition to or different from' federal requirements and thus expressly preempted by FIFRA's labeling requirements. Moreover, these contrary holdings would open the door to 50 different state-required labels for glyphosate-containing herbicides, and any other products governed by FIFRA, in conflict with the clear intent and letter of the Uniformity provision of this federal law.

The petition also notes that there is preemption language similar to FIFRA in statutes regulating medical devices, poultry products, meat and motor vehicles that make resolution of this preemption split even more important, as courts often are guided by prior decisions interpreting similar language in other statutes.

Monsanto's petition argues that *Durnell's* state-based failure-to-warn claim also should be dismissed under implied preemption because it is impossible for the company to comply with both federal and state requirements for the same reasons already noted.

Monsanto filed two prior petitions in the Roundup™ litigation on the federal preemption question with the U.S. Supreme Court, in *Hardeman* and *Pilliod*, the second and third cases to go to trial. Significantly, both petitions were filed before the U.S. Court of Appeals for the Third Circuit ruled in the company's favor in *Schaffner* in August 2024, creating a circuit split.

In October 2023, *Durnell* was tried in Missouri Circuit Court for the City of St. Louis and the jury returned a verdict in favor of the plaintiff. The jury found the Company failed to warn of the product's risk and awarded 1.25 million US-Dollars to the plaintiff, but it rejected all other claims and declined to award punitive damages. The company appealed the verdict in August 2024 and the Missouri Court of Appeals, Eastern District upheld the verdict in February 2025. Monsanto promptly filed a writ to transfer the case to the Missouri Supreme Court and it declined review on April 1, making it ripe for U.S. Supreme Court review and the petition filed just three days later.

About Bayer

Bayer is a global enterprise with core competencies in the life science fields of health care and nutrition. In line with its mission, "Health for all, Hunger for none," the company's products and services are designed to help people and the planet thrive by supporting efforts to master the major challenges presented by a growing and aging global population. Bayer is committed to driving sustainable development and generating a positive impact with its businesses. At the same time, the Group aims to increase its earning power and create value through innovation and growth. The Bayer brand stands for trust, reliability and quality throughout the world. In fiscal 2024, the Group employed around 93,000 people and had sales of 46.6 billion euros. R&D expenses amounted to 6.2 billion euros. For more information, go to www.bayer.com.

Contact for media inquiries:

Philipp Blank, phone +49 214 30-20499

Email: philipp.blank@bayer.com

Brian Leake, phone +1-314-370-3285

Email: brian.leake@bayer.com

Contact for U.S. investor inquiries:

Erica Mulligan, phone +49 214 30-72704

Email: erica.mulligan@bayer.com

Contact for global investor inquiries:

Bayer Investor Relations Team, phone +49 214 30-72704

Email: ir@bayer.com

www.bayer.com/en/investors/ir-team

pb (2025-0072e)

Forward-Looking Statements

This release may contain forward-looking statements based on current assumptions and forecasts made by Bayer management. Various known and unknown risks, uncertainties and other factors could lead to material differences between the actual future results, financial situation, development or performance of the company and the estimates given here. These factors include those discussed in Bayer's public reports which are available on the Bayer website at www.bayer.com. The company assumes no liability whatsoever to update these forward-looking statements or to conform them to future events or developments.