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Jury Finds Bayer's Roundup Weedkiller Caused Man's Cancer

Second phase of the trial will weigh Monsanto's liability

Bayer faces lawsuits from about 11,200 farmers, home gardeners and landscapers claiming its glyphosate-based herbicides, such as Roundup, cause non-Hodgkin lymphoma and other cancers.

By Sara Randazzo and Ruth Bender

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SAN FRANCISCO—A jury found that a man developed cancer from exposure to Roundup weedkiller he used in his yard, in the second case to go to trial over the alleged harms of the popular [Bayer AG BAYRY -2.61%](#) product.

The six-person jury in U.S. District Court in San Francisco now is set to begin hearing evidence to separately weigh whether Bayer's Monsanto unit should be held liable, a decision that could bring substantial financial damages against the company.

The verdict issued Tuesday marks another setback for Bayer, which has come under intense pressure since [a jury in August reached a \\$289.2 million verdict](#) in the first case over the weedkiller to go to trial. That decision, which sent Bayer shares down sharply, came soon after the German company [completed its acquisition of Monsanto Co.](#) Bayer has appealed that verdict, which the trial judge [cut down to \\$78.5 million](#).

Tuesday's verdict is likely to keep the heat on Bayer's share price, which hasn't recovered from its August drop.

Analysts and investors had seen Bayer at an advantage in this second trial after U.S. District Judge Vince Chhabria agreed to [split the evidence into two phases](#), with the first focusing solely on whether Roundup and its active ingredient, glyphosate, are carcinogenic. In the first phase, jurors didn't hear allegations that the company hid dangers about its product from the public.

Bayer [faces lawsuits in the U.S. from about 11,200 farmers, home](#)



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[gardeners and landscapers](#) claiming its glyphosate-based herbicides cause non-Hodgkin lymphoma and other cancers. Six more trials are due to start this year in federal and state courts.

Bayer said Tuesday that it is disappointed with the jury's decision but "we continue to believe firmly that the science confirms that glyphosate-based herbicides do not cause cancer" and that the second phase of the trial "will show that Monsanto's conduct has been appropriate."

Aimee Wagstaff and Jennifer Moore, attorneys for plaintiff Edwin Hardeman, said their client is pleased with the jury's unanimous decision. "Now we can focus on the evidence that Monsanto has not taken a responsible, objective approach to the safety of Roundup," they said.

During the nine days of trial, ending Tuesday of last week, the San Francisco jury heard competing scientific evidence over whether Roundup has been shown to cause cancer.

Mr. Hardeman's attorneys said he developed non-Hodgkin lymphoma after 26 years of regularly using Roundup to control weeds and poison oak on his rural properties in Northern California.

"We've showed you the evidence that Monsanto refuses to analyze," Ms. Wagstaff told jurors during closing arguments. She argued that Monsanto disregards studies on animals and cell structures that, along with studies of human populations, prove Roundup's dangers.

"Do not ignore the data that Monsanto is asking you to ignore," Ms. Wagstaff said.

Bayer attorney Brian Stekloff countered in his closing remarks that the science jurors were shown by the plaintiff's attorneys was made for court and that the expert witnesses aren't warning anyone about the alleged harms of Roundup in their day jobs. "They're telling you, real-world medical practice doesn't matter," he said of the plaintiff's position.

The jury deliberated over parts of five days, at one point asking to rehear testimony from Mr. Hardeman, before reaching its decision that



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a preponderance of evidence showed that Roundup exposure was a “substantial factor” in causing his cancer.

Bayer argues that some 800 studies and regulatory decisions across the globe assert that glyphosate is safe and not carcinogenic. Bayer Chief Executive Werner Baumann said last month that the two-phase trial would allow Bayer to put a strong focus on scientific data that confirm the product’s safety.

In 2015, the International Agency for Research on Cancer, a World Health Organization branch, designated glyphosate as [probably carcinogenic to humans](#). That kicked off a wave of litigation and regulatory scrutiny around the world.

Ahead of the first trial, also in San Francisco, attorneys for plaintiff Dewayne Johnson, a former school groundskeeper, released internal Monsanto emails they said showed the company’s inappropriate role in shaping studies on glyphosate. Bayer argues those emails were taken out of context.

Lawyers for Mr. Johnson argued in court that Monsanto knew the testing of glyphosate was insufficient and that employees ghostwrote favorable scientific articles and paid outside scientists to publish the articles under their names. The jury in California state court found Monsanto knew or should have known of potential risks and failed to warn consumers.

The latest trial will now move into the second phase, probing Monsanto’s conduct and whether it was negligent.

Drawing the line on what evidence could be presented in the first phase prompted clashes in court, including \$500 sanctions against the lead plaintiff’s lawyer for what the judge called obvious violations of his orders on what jurors could see.

Mr. Hardeman’s case is the first of three bellwether trials scheduled to take place in federal court to help assess the claims. Hundreds of federal cases have been consolidated in front of Judge Chhabria.



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Mr. Baumann, Bayer's CEO, cautioned in February that the glyphosate legal fight was "only at the beginning." Analysts say they will need to see at least a handful of verdicts before they can make more precise estimates of the potential liabilities for Bayer. Until that happens, shares are likely to remain depressed, they say.

Tuesday's verdict surprised Jonas Oxgaard, an analyst at Sanford C. Bernstein & Co. who follows the chemical and agricultural industries. "I genuinely thought with the first stage here focusing on the science, that [Bayer] would win," he said. "On the other hand, it's a San Francisco jury."

While Bernstein analysts viewed the scientific evidence as weighing in Bayer's favor, they have estimated settling the litigation could cost the company up to \$5 billion.

Bayer said it intends to continue contesting the allegations.

—*Jacob Bunge contributed to this article.*

Write to Sara Randazzo at sara.randazzo@wsj.com and Ruth Bender at Ruth.Bender@wsj.com

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