

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: ROUNDUP PRODUCTS
LIABILITY LITIGATION

MDL No. 2741

Case No. 16-md-02741-VC

This document relates to:

Hardeman v. Monsanto, 3:16-cv-00525-VC

**PRETRIAL ORDER NO. 107:
ORDER RE FINAL JURY
INSTRUCTIONS**

This order is in response to the plaintiff's further substantive objection, filed last night, to the causation instruction. The court cannot give the standard California multiple causation instruction (CACI 431) because the plaintiff neglected to present any evidence at trial that Roundup combined with hepatitis C or hepatitis B to cause the Mr. Hardeman's NHL. Moreover, although the plaintiffs appear primarily to be concerned with the "but for" sentence, that sentence is still appropriate in cases where multiple factors may have combined to cause harm. Overall, the plaintiffs have not presented a concrete proposal for instructing the jury on causation that is consistent with both the law and the evidence presented in this case.

Monsanto originally proposed to give the standard causation instruction (CACI 430). The language the court added regarding multiple independent causes was an attempt to protect the plaintiff by ensuring that the jury would not return a verdict for Monsanto merely based on a conclusion that hepatitis C would have caused Mr. Hardeman's NHL anyway. It appears from last night's objection, however, that the plaintiff may have concluded that this further independent causation instruction is counterproductive. Accordingly, if the plaintiff wishes, in lieu of the instruction the court filed yesterday, the court will simply give the standard causation instruction (CACI 430), including the "but for" sentence.


Either way, the Court will add the sentence from CACI 430 which states that a substantial factor does not have to be the only cause of the harm. Reinsertion of this sentence seems appropriate in light of

the testimony from the experts about age being a risk factor. If the plaintiff prefers the instruction that the court filed yesterday, the Court will reinsert that sentence into the first paragraph. If the plaintiff prefers to simply give CACI 430, the Court will include that sentence as it appears in the instruction. Regardless, the plaintiff may not argue that Roundup combined with hepatitis C or hepatitis B to cause his NHL, given his failure to present evidence of this at trial.

The plaintiff must inform the court and opposing counsel by 8:00 am today which option he chooses.

IT IS SO ORDERED.

Date: March 12, 2019



Honorable Vince Chhabria
United States District Court