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CLIFFORD'S NOTES

HIDING BEHIND SHIELDS

Reforms needed to break corporate immunity

By **BOB CLIFFORD**

Since the eye-opening \$289 million verdict against Monsanto (now owned by the agrochemical giant Bayer) in 2018 on behalf of a groundskeeper who contracted non-Hodgkin lymphoma due to his exposure to the pesticide Roundup, it's become common knowledge that those who have contact with the dangerous product have a greater chance of getting cancer. Though the award was later reduced on appeal to \$20.5 million, it marked a significant moment of accountability with the California appeals court which concluded there was "substantial" evidence that the ingredients caused plaintiff's cancer.

Farmers often suffer the greatest harm. Chemical pesticides in agriculture have come under more intense scrutiny as growing evidence links long-term exposure to certain pesticides with serious health consequences including leukemia and prostate cancer.

When farmers seek justice through legal channels, many encounter a powerful obstacle: corporate immunity. This legal shield protects pesticide companies from accountability, undermining public health and environmental justice.

One of the best examples of dangerous chemicals is glyphosate, the active ingredient in Roundup and one of the most widely-used pesticides in the country. Despite the World Health Organization's International Agency for Research on Cancer classification of glyphosate as "probably carcinogenic to humans" in 2015, pesticide companies have persistently denied any connection between their products and cancer. These companies rely on a November 2017 study by researchers at the National Institutes of Health that "observed no associations between glyphosate use and overall cancer risk." In 2015, the Environmental Protection Agency issued a report concluding that glyphosate was "not likely to be carcinogenic to humans" at doses relevant to human health.

Corporate immunity in the context of pesticide litigation often arises out of two legal strategies: federal preemption and product registration under the Federal Insecticide, Fungicide,

and Rodenticide Act. When the EPA registers a pesticide, it essentially approves its use based on the data submitted by manufacturers, which includes studies of toxicity and environmental impact. Pesticide companies argue that EPA registration should absolve them of responsibility because the product has already been deemed safe for use under the organization's federal guidelines.

In some cases, lawmakers have passed bills granting blanket immunity to pesticide companies for health-related claims. Iowa is where the so-called "Bayer Bill" that would have granted protections to pesticide companies failed despite the state having the second-highest cancer rate in the nation. A 2025 report by the Iowa Cancer Registry predicted that 21,200 of its residents will be diagnosed with cancer in this year. The Iowa Senate passed Senate File 394 that would make it impossible to bring "Failure to Warn" lawsuits against pesticide companies for cancer and other health issues caused by their products. The bill failed in the Iowa House in April.

Bayer has reached settlement agreements in nearly 100,000 Roundup lawsuits, paying approximately \$11 billion as of May 2025. However, Bayer maintains the product is safe, pointing to repeated EPA evaluations of the carcinogenic potential of glyphosate. Bayer achieved this through large-scale block settlements with firms handling high volumes of claims, along with pre-trial resolutions in individual cases. Although these settlements account for about two-thirds of the total cases, Monsanto estimates that roughly 67,000 active Roundup suits are still pending. Most of these cases are now in state courts across the country, though more than 4,000 remain consolidated in federal multidistrict litigation in California, according to Lawsuit Information Center.

However, Bayer's argument is deeply flawed. The EPA's evaluation process relies heavily on self-serving data provided by the companies themselves, often without independent verification. Furthermore, the EPA's assessments tend to focus on average exposure levels that may not accurately represent the high, chronic,



widespread exposure experienced by many farmworkers. When cancer cases arise and lawsuits are filed in state court, pesticide manufacturers frequently invoke the argument that since the EPA approved the product, the doctrine of federal preemption prevents them from being held liable under state tort laws. This legal shield, if applied, removes a key avenue for injured parties to seek compensation. And while companies can hire teams of lawyers to delay proceedings and challenge evidence, sick farmers and their families often lack the means to fight prolonged legal battles.

To address the problem of corporate immunity, several reforms are needed. The EPA must adopt more rigorous and independent testing procedures for pesticide approval, minimizing conflicts of interest. Legislators should strengthen, not weaken, the ability of individuals to sue for damages caused by toxic exposure, and transparency must be prioritized in the regulatory process, with greater public access to data on pesticide safety.

Corporate immunity for pesticide companies presents an unjust barrier to justice for farmers with cancer caused by prolonged exposure to toxic chemicals. By allowing powerful corporations to escape accountability, the system fails to protect those most at risk. If the agricultural sector is to be sustainable and just, accountability must be restored. rclifford@cliffordlaw.com

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