



Court File No.: CV-19-00000699-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE

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FRIDAY, THE 8TH

JUSTICE GRACE

JUSTICE KALAJDZIC

DAY OF DECEMBER, 2023

B E T W E E N :

JEFFREY DEBLOCK

Plaintiff

- and -

**MONSANTO CANADA ULC, MONSANTO COMPANY and
BAYER INC.**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made by the Plaintiff for certification of the within action as a class proceeding pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, c. 6, was heard on March 28, 29 & 30, 2023, at 80 Dundas Street, London, Ontario.

ON READING the Motion Record of the Plaintiff, the Responding Motion Record of the Defendants, the Reply Motion Record of the Plaintiff, the Further Responding Motion Record of the Defendants, the Further Reply Motion Record of the Plaintiff, the Factum of the Plaintiff, the Responding Factum of the Defendants, the Reply Factum of the Plaintiff, and the Brief of Cross-Examination Transcripts (Transcript Brief), and upon hearing the submissions of counsel for the Plaintiff and counsel for the Defendants, and for the Reasons released this day;

1. **THIS COURT ORDERS** that this action be and is hereby certified as a class proceeding pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, c. 6, s. 5(1).

2. **THIS COURT ORDERS** that the Class is defined as:

- (a) All individuals in Canada who (a) had Significant Exposure to Roundup prior to December 8, 2023, and (b) were diagnosed with non-Hodgkin's lymphoma after their Significant Exposure but before December 8, 2023 (**“Non-Hodgkin’s Lymphoma Class Member”**); and
 - (b) All individuals in Canada who are the living spouse, child, grandchild, parent, grandparent, or sibling of a Non-Hodgkin’s Lymphoma Class Member (**“Family Class Member”**);
- 3. **THIS COURT ORDERS** that the following definitions shall apply to this Order:
 - (a) **“Significant Exposure”** means application of Roundup on more than two occasions in a 12-month period and more than 10 occasions in a lifetime; and
 - (b) **“Roundup”** means any glyphosate-based herbicide product manufactured, marketed, distributed and/or sold by any one of the Defendants, regardless of whether it was marketed with the “Roundup” branding.
- 4. **THIS COURT ORDERS** that Jeffrey DeBlock be and is hereby appointed as the representative plaintiff for the Class.
- 5. **THIS COURT ORDERS** that Koskie Minsky LLP, McKenzie Lake Lawyers LLP, and Merchant Law Group LLP be and are hereby appointed as counsel to the Class.
- 6. **THIS COURT ORDERS** that the proceeding is certified on behalf of the Class in respect of the following common issues:
 - (i) Can glyphosate be genotoxic in humans?
 - (ii) Is glyphosate associated with non-Hodgkin’s lymphoma?
 - (iii) Can Significant Exposure to Roundup cause non-Hodgkin’s lymphoma?

- (iv) Did the labels, packaging, marketing material or other material provided by the Defendants to consumers warn users that exposure to Roundup could cause non-Hodgkin's lymphoma?
- (v) Did the labels, packaging, marketing material or any other material provided by the Defendants to consumers warn users to prevent exposure through the use of protective gear or other means, and that the failure to do so could cause non-Hodgkin's lymphoma?
- (vi) Did the Defendants owe a duty of care to Class Members?
- (vii) If the answer to question (vi) is "yes," what was the standard of care applicable to the Defendants?
- (viii) Did the Defendants breach that standard of care? If so, when and how?
- (ix) Are the Defendants, or any of them, liable to pay punitive damages to the Class Members, having regard to the nature of their conduct, and, if so, in what amount?

7. **THIS COURT ORDERS** that, subject to paragraph 8 of this Order, the litigation plan attached hereto as Schedule "A" be and is hereby approved for purposes of certification. Such approval is subject to further Court order and without prejudice to the rights of any party to seek amendments to the litigation plan.

8. **THIS COURT ORDERS** that: (i) the form, manner and costs of notice and the time and manner of opting out; and (ii) the timetable for all steps leading to and following a common issues trial, shall be determined by further order of the Court and the litigation plan shall thereafter be amended accordingly.

9. **THIS COURT ORDERS** that the Class seeks damages, declarations and orders related to claims for alleged negligence (negligent design and failure to warn).

10. **THIS COURT ORDERS** that no other proceeding relating to the allegations raised in the pleadings and the common issues as certified by the Court in this action may be commenced without leave of the Court on notice to the Plaintiff and the Defendants.

11. **THIS COURT ORDERS** that, pursuant to an agreement between the parties, costs are fixed in the amount of \$700,000.00 all inclusive, comprising: i) costs on a partial indemnity basis in the amount of \$469,026.55; ii) disbursements in the amount of \$170,000.00; and iii) applicable taxes in the amount of \$60,973.45, payable by the Defendants forthwith.

Date of issuance April 3rd, 2025



Schedule “A”

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

JEFFREY DEBLOCK

Plaintiff

- and -

**MONSANTO CANADA ULC, MONSANTO COMPANY and
BAYER INC.**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

LITIGATION PLAN

RESOURCES AND EXPERIENCE OF COUNSEL

1. Class Counsel are Koskie Minsky LLP, McKenzie Lake Lawyers LLP and Merchant Law Group (collectively “Class Counsel”). Class Counsel has the requisite knowledge, skill, experience, and resources to prosecute the action to resolution.

REPORTING AND COMMUNICATION

2. Class Counsel have posted information about the nature and status of this action on their websites.¹ That information will be updated regularly. Copies of important, publicly available court documents, court decisions, notices, documentation and other information relating to the action are or will be accessible from the websites.

¹ <https://www.merchantlaw.com/class-actions/recent-updates/roundup-class-action-action-collective-roundup/>; <https://www.mckenzielake.com/practice-areas/class-actions-law/roundup-class-action/>; and <https://kmlaw.ca/cases/roundup-class-action/>

3. The websites also:
 - (a) contain a communication webpage, a feature that permits putative class members to submit inquiries to Class Counsel, who will promptly respond;
 - (b) list a toll-free direct dial telephone number, permitting putative class members to make inquiries to a live person.

NOTICE OF CERTIFICATION

4. If certification is granted, the content of notice of certification will be approved by the Court. The Plaintiff proposes the following plan for dissemination of notice to class members:

- (a) publication of the notice of certification in newspapers of national circulation and on relevant websites in consultation with an experienced claims administrator, as directed and approved by the Court;
- (c) additionally, Class Counsel will post a copy of the notice of certification on their websites, and provide it to class members who have registered for notice, as well as any class member who requests it;
- (d) publication of the notice via internet advertisements, such as Google, StackAdapt and/or ads on social media; and,
- (e) by such other notice as counsel may request and the Court directs.

5. The Court will be asked to approve an opt-out form. The Court will also be asked to set a date by when the opt-out forms are to be delivered to Class Counsel or the claims administrator, as the case may be.

PLEADINGS, DISCOVERY AND DOCUMENT MANAGEMENT

6. The Plaintiff proposes that the Defendants be required to deliver their Statement of Defence within 30 days of certification, or other such date as set by the Court.

7. The Plaintiff proposes that the parties will meet to discuss and finalize a discovery plan within 60 days of certification.

8. Class Counsel will use data management systems to organize, code and manage the documents produced by the Defendants and all relevant documents in the Plaintiff's possession. Class Counsel will seek the agreement of Defendants' counsel to facilitate the electronic exchange of documents.

EXPERT OPINIONS

9. Expert opinions shall be delivered to each party pursuant to Rule 53.03 of the *Rules of Civil Procedure* and in accordance with a timetable set by the Court.

REFINEMENT OF THE COMMON ISSUES

10. Following certification, examinations for discovery, the exchange of expert opinions, and before the trial of the common issues, the Plaintiff may ask the Court for an order to amend or further refine the common issues, if required.

DISPUTE RESOLUTION

11. At a date as agreed by the parties or as set by the Court, the parties are to participate in mediation or other dispute resolution mechanism.

NOTICE OF DETERMINATION OF THE COMMON ISSUES AT TRIAL

12. The class will be informed of the results of the common issues trial by distribution of a notice as approved by the Court.

13. The Plaintiff will ask the Court to order that the notice be distributed to class members (except to those who validly opted out of the class action). The notice will specify procedures and deadlines by which class members shall identify themselves as claimants wishing to make claims.

INDIVIDUAL ISSUES DETERMINATION – IF REQUIRED

14. If the Court concludes that any aspect of causation or damages cannot be determined on a class-wide basis, and requires individual determinations, the Plaintiff will ask the Court to settle the manner of determining the remaining individual issues in the most efficient manner possible in accordance with section 25 of the *Class Proceedings Act, 1992*. Potential methods include claims processes, references, mini-trials, mediation, arbitration or other means approved by the Court pursuant to section 25 of the *Class Proceedings Act, 1992*.

15. The Plaintiff anticipates that given the nature of the injuries suffered by class members, adjudication of the claims could be resolved through an efficient process which could involve the following steps, and which would be subject to the Court's discretion:

- (a) Each claimant could submit a claim form to a referee appointed by the Court (the "Referee"). The claim form may include the following information, with supporting documentation and/or expert evidence, as applicable:
 - (i) details related to the use of Roundup, including:
 - 1. dates of use;
 - 2. duration of use;
 - 3. volume of use;
 - (ii) confirmation of a diagnosis of Non-Hodgkin's Lymphoma;
 - (iii) information relevant to a differential diagnosis;
 - (iv) details of physical, emotional and out-of-pocket damages;
 - (v) the identity and relation of any *Family Law Act* ("FLA") claimant; and,
- (b) Each claim under this plan asserts a subrogated claim for insured services on behalf of OHIP and/or any other relevant provincial health insurers;
- (c) The Referee shall deliver a copy of the claim form and any supporting documentation and/or expert evidence to the Defendants;
- (d) The Defendants shall have an opportunity, following receipt of the claim form and documentation, to file with the Referee a written opposition to all or part of the claim. The written opposition shall state the reasons for the opposition;
- (e) On request by either of the parties, the Referee shall determine what, if any, additional production is required by either party, and what examination may be conducted, and whether participation by any other parties is necessary in the process;

- (f) The Referee shall communicate his/her decisions in writing to the claimant and to the Defendants;
- (g) The assessment of damages, including the determination of any issues of causation, may be done in writing or by means of oral hearing, depending on the nature and complexity of the claim and the severity of the alleged personal injury, in accordance with the Court's determination. The availability and manner of appeal procedures will be determined by the Court;
- (h) It may be possible to categorize and value claims in accordance with a grid according to the nature and severity of the damages, having due consideration for any personal injuries.

16. The need for further procedures under section 25 of the *Class Proceedings Act, 1992* to resolve the individual issues will be determined by the Court.

REVIEW OF THE PLAINTIFF'S LITIGATION PLAN

17. The Plaintiff's litigation plan may be reviewed or modified as deemed necessary by the parties or the Case Management Judge during case management.

CASE MANAGEMENT

18. During the litigation, regular case planning, conferences and any interlocutory motions will be scheduled, as required.

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT LONDON

ORDER

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