Amended this 22nd day of May 2025
pursuant to rule 26.02(a) of civil procedure

Riley McGregor Digitally signed by Riley McGregor
Date: 2025.05.22 10:53:27 -04'00'

Court File No.: 699/19

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

SECOND FRESH AS AMENDED STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and $1,000.00 for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and $400.00 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: December 20, 2019

Issued by _____
Local registrar

Address of court office: London Courthouse
80 Dundas Street
London, Ontario N6A 6A3

TO: **MONSANTO CANADA ULC**
2500-10220 103 Avenue NW
Edmonton, Alberta T5J 0K4
Canada

AND TO: **MONSANTO COMPANY**
251 Little Falls Drive
Wilmington, Delaware 19808
United States of America

AND TO: **BAYER INC**
2920 Matheson Boulevard East
Mississauga, Ontario L4W 5R6
Canada

CLAIM

DEFINITIONS

1. Capitalized terms used in this Statement of Claim have the meanings indicated below:

   (a) "**Class**" and "**Class Members**" means

      (i) 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,

      (ii) all individuals in Canada who are the living spouse, child, grandchild, parent, grandparent, or sibling of a Non-Hodgkin's Lymphoma Class Member;

   (b) "**EPA**" means the United States' Environmental Protection Agency;

   (c) "**Glyphosate**" means the active ingredient in Roundup products;

   (d) "**IARC**" means the International Agency for Research on Cancer, the specialized cancer agency of the World Health Organization;

   (e) **"Monsanto"** refers collectively to Monsanto Company and Monsanto Canada ULC;

   (f) "**PMRA**" means Pest Management Regulatory Agency, a department of Health Canada;

   (g) "**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;

   (h) "**Significant Exposure**" means application of Roundup on more than two occasions in a 12-month period and more than 10 occasions in a lifetime.

RELIEF SOUGHT BY THE PLAINTIFFS

2. The Plaintiff claims:

(a) an order certifying this action as a class proceeding and appointing Jeffrey DeBlock as the representative Plaintiff;

(b) a declaration that the Defendants breached their duty of care to the Class Members;

(c) a declaration that the Defendants were negligent in the research, development, design, manufacture, testing, distribution, sale and marketing of Roundup products;

(d) a declaration that the Defendants were negligent in their failure to warn Roundup users and the public of the health risks associated with Significant Exposure to Roundup;

(e) a declaration that the Defendants are vicariously liable for the acts and omissions of their officers, directors, agents, employees and representatives;

(f) non-pecuniary damages;

(g) pecuniary and special damages in an amount to be determined;

(h) damages pursuant to the *Family Law Act*, RSO 1990, c F3 s 61, and similar legislation (and the common law) in other provinces;

(i) punitive damages;

(j) the costs of distributing all monies received to class members;

(k) prejudgement and postjudgment interest;

(l) costs on a substantial indemnity basis, plus applicable taxes; and,

(m) such further and other relief as this Honourable Court may deem just.

NATURE OF THE ACTION

3. Since 1976, the Defendants have distributed and sold Roundup across Canada. Significant Exposure to Roundup causes cancer, specifically Non-Hodgkin's lymphoma. Many thousands of Canadians – farmers and agricultural workers and landscapers – have been subjected to Significant Exposure to Roundup. Thousands of Canadians have developed Non-Hodgkin's lymphoma as a result of their Significant Exposure to Roundup.

4. The Defendants have refused to warn Roundup users and the public that Significant Exposure to Roundup causes cancer.

5. On the contrary, the Defendants' have undertaken a concerted effort to undermine, manipulate, discredit, suppress and delay the scientific discourse on whether glyphosate and Roundup cause cancer. During these decades of obfuscating, the Defendants have profited immensely from the sale of Roundup.

6. The IARC determined that glyphosate is a probable human carcinogen in 2015. Prior to that, the Defendants knew or ought to have known that glyphosate is carcinogenic. Despite the IARC's finding, the Defendants continue to deny any link between Roundup and cancer. Instead of warning Roundup users and the public about the risks associated with their products, the Defendants have engaged in bad faith and surreptitious attacks against the IARC in an effort to sow confusion and doubt in the public about the state of the science.

7. The Defendants are liable in negligence to the Plaintiff and Class Members, who have suffered Significant Exposure to Roundup, a cancer-causing substance, without any warning of the risks.

THE PLAINTIFF

8. The Plaintiff, Jeffrey DeBlock, resides in Toronto, Ontario.

9. As a teenager, Mr DeBlock was hired to spray agricultural crops with Roundup for 1-2 weeks each summer in 1991, 1992, 1993, 1994 and 1995. Using a backpack sprayer and hand wand, he sprayed Roundup for over 6 hours each day across dozens of acres. Through this work, Mr DeBlock suffered Significant Exposure to Roundup.

10. In September 1995, while still in high school, Mr DeBlock was diagnosed with Non-Hodgkin's lymphoma. His cancer was diagnosed as Stage IV B, meaning the cancer was advanced and had spread to other parts of his body. From October 1995 to February 1996, instead of finishing high school, Mr DeBlock underwent extensive chemotherapy treatment. Following this treatment, he received an autologous bone marrow (stem cell) reinfusion.

11. Mr DeBlock suffered further physical and mental injuries as a result of his cancer diagnosis and treatment.

THE DEFENDANTS

12. The Defendant Monsanto Company is a Delaware corporation with its headquarters and principal place of business in St Louis, Missouri. At all material times, Monsanto Canada ULC was a wholly owned subsidiary of Monsanto Company. At all material times, Monsanto Company exercised complete control over Monsanto Canada ULC. At all material times, Monsanto Company was liable for the acts and omissions of Monsanto Canada ULC. At all material times, Monsanto Company manufactured, marketed, distributed, and/or sold Roundup in the United States and Canada. Monsanto Company, including its affiliated corporations, was the entity that first commercialized and patented glyphosate for herbicidal use. Monsanto Company, including its affiliated corporations, obtained regulatory approval for the use Roundup in the United States and Canada.

13. The Defendant Monsanto Canada ULC is an Alberta corporation with its registered office in Edmonton, Alberta. It is the wholly owned Canadian subsidiary of the Defendant Monsanto Company. At all material times, Monsanto Canada ULC manufactured, marketed, distributed, and/or sold Roundup in Canada. Monsanto Canada ULC, including its affiliated corporations, was the entity that first commercialized and patented glyphosate for herbicidal use in Canada. Monsanto Canada ULC, including its affiliated corporations, obtained regulatory approval for the use Roundup in Canada.

14. The Defendant Bayer Inc is a Canadian federal corporation with its registered office in Mississauga, Ontario. Bayer Inc is the wholly owned Canadian subsidiary of Bayer AG. On or around June 7, 2018, Bayer AG acquired the Defendants Monsanto Company and Monsanto Canada ULC, including their liability for prior events. Since that date, Bayer Inc and its affiliated

corporations have exercised complete control over Monsanto Company and Monsanto Canada ULC. Bayer Inc is liable for the acts and omissions of Monsanto Company and Monsanto Canada ULC, both before and after their acquisition.

15. Prior to June 7, 2018, the business of Monsanto Company and the business of Monsanto Canada ULC were inextricably intertwined with one another and each is the agent of the other for the purposes of researching, designing, manufacturing, developing, preparing, processing, inspecting, testing, packaging, promoting, marketing, distributing, labelling, and/or selling for a profit, either directly or indirectly through an agent, affiliate or subsidiary, Roundup in Canada. At all material times, the Defendants were engaged in the business of designing, manufacturing, testing, packaging, promoting, marketing, distributing, labelling, and/or selling Roundup in Canada. The development of Roundup for sale in Canada, the conduct of studies, the preparation of regulatory applications, the maintenance of regulatory records, the labelling and promotional activities regarding Roundup, and other actions central to the allegations of this lawsuit, were undertaken by Monsanto Company and Monsanto Canada ULC in Ontario and elsewhere.

16. Since June 7, 2018, the businesses of Monsanto Company, Monsanto Canada ULC and Bayer Inc were inextricably intertwined with one another and each is the agent of the other for the purposes of researching, designing, manufacturing, developing, preparing, processing, inspecting, testing, packaging, promoting, marketing, distributing, labelling, and/or selling for a profit, either directly or indirectly through an agent, affiliate or subsidiary, Roundup in Canada. Since June 7, 2018, all of the Defendants were engaged in the business of designing, manufacturing, testing, packaging, promoting, marketing, distributing, labelling, and/or selling Roundup in Canada. Since June 7, 2018, the development of Roundup for sale in Canada, the conduct of studies, the preparation of regulatory applications, the maintenance of regulatory records, the labelling and promotional activities regarding Roundup, and other actions central to the allegations of this lawsuit, were undertaken by all of the Defendants together in Ontario and elsewhere.

THE FACTS

Roundup Herbicides

17. Roundup herbicides are broad-spectrum, non-selective herbicides that kill most species of green plants. They are widely used in agriculture, landscaping, gardening, lawn care, and forestry. The active ingredient in Roundup is glyphosate. Plants treated with Roundup absorb it through their tissues and it is then translocated (moved) throughout the plant. Roundup kills plants by interfering with their ability to synthesize proteins.

18. The Defendants first discovered the herbicidal properties of glyphosate in 1970. The Defendants brought the original Roundup herbicide to market in the United States in 1974. Monsanto first registered Roundup for use in Canada on July 1, 1976.

The Defendants' Marketing of Roundup

19. The Defendants have at all material times represented Roundup to the public as a "safe" herbicide. They have encouraged and promoted the ever-growing use of Roundup in agricultural and non-agricultural sectors. Their success in this regard has redounded to their corporate benefit through billions of dollars in profits.

20. Within a few years of the introduction of Roundup to the marketplace, the Defendants were marketing Roundup in over 100 countries. From the mid-1970s to the mid-1990s, the number and diversity of agricultural and non-agricultural uses of Roundup grew steadily, but the volume sold was limited because glyphosate could only be sprayed where a user wanted to kill all vegetation (e.g. between orchard or viticulture rows; industrial yards; and, over rights of way for trains, pipelines, and powerlines).

21. In the early 1990s, Monsanto began developing genetically engineered crop seeds that could withstand direct application of Roundup. In 1995, so-called “Roundup Ready” genetically engineered, glyphosate-tolerant soybean and canola seeds were approved for planting in Canada. This technology made it possible to utilize Roundup as a broadcast herbicide (i.e., sprayed uniformly over the entire treated area), thereby dramatically extending the time period and total area for Roundup application. Further products were developed by Monsanto for use in Canada, including Roundup Ready corn (1999), alfalfa (2005), sugar beets (2005) and cotton (2005).

22. Farmers who bought Roundup Ready seeds could have an entire field sprayed indiscriminately with Roundup without harming their crop. The Defendants also began to market Roundup for pre-harvest desiccant uses to speed up harvest operations, and after-harvest uses to control late-season weeds that escaped other control measures.

23. The increasing frequency with which, and areas over which, Roundup could be sprayed has led to a many-fold increase in Roundup use in Canada since the mid-1990s.

24. The massive increase in the use of Roundup has triggered the evolution and spread of glyphosate-resistant weeds. These resistant weeds require higher pesticide application rates and more frequent spraying to combat. Glyphosate resistance in weeds continues to grow, threatening any utility that Roundup products offer to farmers and other users.

25. Monsanto's development of Roundup Ready seeds and other business practices (e.g. volume discounts and price reductions versus generics) allowed it to maintain market dominance even as glyphosate came off patent. During the 1990s, the average annual volume growth of Roundup in Canada was over 20 percent. By 1998, Roundup (excluding lawn and garden products) accounted for nearly $2.3 billion in net sales worldwide. By 2000, this figure was over $2.6 billion, with sales of Roundup exceeding those of the next six leading herbicides combined and accounting for almost half of Monsanto's revenue. By 2015, Monsanto made nearly $4.76 billion in revenue and $1.9 billion in gross profits from herbicide products, mostly Roundup.

The IARC's Classification of Glyphosate as a Carcinogen and the Defendants' Subsequent Attack on the IARC

26. The IARC is the specialized cancer agency of the World Health Organization. It produces the definitive reference source of cancer risk factors in the form of IARC Monongraphs on the Identification of Carcinogenic Hazards to Humans.

27. The IARC Monographs Programme identifies and evaluates the preventable causes of cancer in humans. Since 1971, more than 1000 suspected carcinogenic agents have been evaluated. The IARC classifies agents as either human carcinogens (Group 1); probable human carcinogens (Group 2A); possible human carcinogens (Group 2B); not classifiable as to human carcinogenicity (Group 3).

28. A working group of independent international experts carries out each IARC evaluation. The independent experts assemble and critically review the scientific evidence according to strict criteria. These criteria focus on determining the strength of the available evidence that the agent causes cancer.

29. The experts review the data available globally on situations in which people are exposed to the agent. They also critically review three different types of data:

(a) epidemiological studies on cancer in humans exposed to the agent (scientific evidence of carcinogenicity in humans);

(b) experimental studies on cancer in laboratory animals treated with the agent (scientific evidence of carcinogenicity in experimental animals); and,

(c) studies on whether the agent has any of the recognized key characteristics of human carcinogens (scientific evidence on carcinogen mechanisms).

30. In March 2015, the IARC working group reviewing glyphosate classified it as a probable human carcinogen (Group 2A). This classification was decided on after 17 independent experts from 11 countries reviewed approximately 1,000 studies, including the latest available scientific evidence. Some of the studies looked at people exposed through their jobs, such as farmers. Others were experimental studies on cancer and cancer-related effects in experimental systems (e.g. laboratory animals).

31. The IARC monograph for glyphosate (Monograph 112) provided reasons for glyphosate's classification as a probable human carcinogen. The supporting evidence was found in scientific evidence of carcinogenicity in humans, in experimental animals, and in evidence that glyphosate can operate through two key characteristics of known human carcinogens and that these can be operative in humans, specifically genotoxicity and oxidative stress.

32. Since the IARC made its finding on glyphosate in 2015, the Defendants have undertaken a campaign to undermine its finding through deceptive scientific practices (e.g. ghostwriting), sow confusion and doubt about its finding in public through an "orchestrated outcry" strategy, and attack the IARC itself as an institution. The planning for this campaign began before the IARC

decision had even been made and involved a broad array of Monsanto staff, including from science, public relations and regulatory affairs departments.

33. Monsanto anticipated that the IARC would classify glyphosate as carcinogenic based on the publically available science. Their planning documents show that as of February 2015, Monsanto staff assumed the IARC would at least classify glyphosate as a *possible* human carcinogen (2B) and that a more significant *probable* human carcinogen rating (2A) was also possible. Nevertheless, at this time and at all other material times, the Defendants have told the public that glyphosate and Roundup are not carcinogenic.

34. Monsanto understood the impact that an IARC classification could have on its ability to realize any revenues from Roundup by impacting future regulatory decision making. For example, in 2015, Canada's PMRA was in the midst of a year’s-long re-evaluation of glyphosate. A PMRA finding that glyphosate's risks to health were unacceptable would result in its removal from the marketplace in Canada.

35. Prior to the IARC's decision, Monsanto had created a "Preparedness and Engagement Plan for IARC Carcinogen Rating of Glyphosate," outlining a number of strategies and tactics it planned to employ in expectation of a negative finding. For example, Monsanto planned to "Orchestrate Outcry with IARC Decision" through a public relations blitz.

36. Monsanto's plan also called for supporting the development of new scientific papers on glyphosate focused on epidemiology and toxicology. In February 2015, Monsanto science staff internally discussed who to "line up" to write the papers and the need for "cost estimates" from those prospective authors. The staff discussed a "less expensive/more palatable approach" to paper writing whereby Monsanto would involve outside experts on certain topics and "ghost-write" other topics. This was likened to past ghostwriting efforts that Monsanto science staff had been involved in. To the public, the papers would appear as independent of Monsanto and be published in a scientific journal. The journal *Critical Reviews in Toxicology* was discussed.

37. By May 2015, Monsanto had refined several proposals for "post-IARC" scientific projects. An internal Monsanto presentation listed reasons for undertaking such projects, including to counter "Severe stigma attached to Group 2A Classification"; to provide "air cover" for regulatory

reviews; and, to provide "Litigation support." Feedback on the proposals was sought and received from other departments, including Monsanto's legal department, which preferred the proposal where Monsanto would appear "somewhat distanced" from the projects. One proposal involved convening an expert panel of "credible scientists" to publish a review of glyphosate's carcinogenic potential, with Monsanto staff potentially doing some of the writing to "keep costs down."

38. Shortly thereafter, Monsanto put the expert panel proposal into practice. In July 2015, Monsanto announced that it had hired the Canadian firm Intertek Scientific & Regulatory Consultancy ("**Intertek**") to convene a panel of experts to review glyphosate's carcinogenicity in response to the IARC's finding. This panel of experts eventually became the listed authors on a set of scientific papers that were presented to the world as an "independent review" of glyphosate's carcinogenic potential in a 2016 special issue of *Critical Reviews in Toxicology*. Unsurprisingly, the overall conclusions of the papers that Monsanto commissioned were favourable to Monsanto: glyphosate is unlikely to pose a carcinogenic risk to humans. The papers explicitly disclaimed any improper influence by Monsanto, stating that no Monsanto employees or lawyers had reviewed the papers prior to their publication and that none of the authors had been engaged by, or acted as consultants to, Monsanto.

39. The five papers published in 2016 were heavily promoted by the Defendants and related third-parties (e.g. industry groups). They were relied upon by government agencies, including the PMRA.

40. The disclaimer in the papers was false. Internal Monsanto documents reveal that Monsanto was involved in selecting the authors (again with input from legal advisors), two of whom were paid via contracts with Monsanto. One author's contract with Monsanto paid him over $27,000 for his work on the papers. The rest of the authors were compensated through contracts with Monsanto's outside consultant, Intertek. Monsanto science staff were extensively involved in the drafting and editing of the papers via Intertek. The revelations about Monsanto's improper involvement and influence in the papers led to an investigation by the publisher of *Critical Reviews in Toxicology* and the panel of authors eventually conceded via "Expressions of Concern," dated September 26, 2018 and November 30, 2018, that information regarding Monsanto and potential conflicts of interest had not been disclosed.

41. The Defendants also engaged in institutional attacks on the IARC, including its funding. Monsanto and its consultants have ghostwritten letters sent on behalf of sitting US Congress-members to the US National Institute of Health (which funds the IARC), making misleading and disingenuous allegations against the IARC and advocating for reductions in its funding. The pesticide industry organization CropLife International, of which the Defendants are members, has also lobbied the governments of Canada, Australia and the Netherlands in an effort to reduce or discontinue their funding and support for the IARC.

The Defendants' Attack on the IARC Flowed from Years of Manipulation and Distortion of the Scientific Discourse on Glyphosate and Roundup

42. The Defendants' bad faith response to the IARC's finding that glyphosate is carcinogenic was no aberration. Rather, the Defendants have for years undertaken a concerted effort to undermine, manipulate, discredit, suppress and delay the scientific discourse on whether glyphosate and Roundup cause cancer.

43. The original registration of Roundup in the US prior to its market entry in 1974 was supported by a single study on glyphosate's carcinogenicity in laboratory animals (i.e., its capacity to cause cancer). However, the laboratory that Monsanto contracted to conduct the study (Industrial Bio-Test Laboratories) was subsequently found by the US EPA and Food and Drug Administration to have engaged in fraudulent practices, including the routine falsification of data. Following these revelations, the EPA concluded that the study on glyphosate's carcinogenicity that Monsanto had relied on was invalid.

44. Monsanto then commissioned a second animal study on glyphosate's carcinogenicity, but the results showed that it caused tumors. On this basis, the EPA classified glyphosate in 1985 as "possibly carcinogenic to humans." Monsanto eventually convinced the EPA to change its classification to "evidence of non-carcinogenicity in humans" in 1991. EPA scientists requested that Monsanto conduct further, more robust studies on glyphosate's carcinogenicity, but Monsanto never did.

45. The registration of Roundup in Canada since the 1970s has been based on the same or substantially similar sets of studies as in the US.

46. Monsanto has also concealed the results of relevant scientific investigations from regulators and the public. For example, Monsanto hired Dr James Parry, an independent expert on toxicology, to review certain material provided to him by Monsanto and opine on glyphosate's genotoxicity (i.e., its capacity to damage the genetic information within a cell causing mutations, which may lead to cancer). In 1999, Dr Parry concluded in an internal report to Monsanto that glyphosate is capable of producing genotoxicity and recommended a number of follow-up studies to confirm the real-world effects. Monsanto did not complete even half of the studies recommended and buried Dr Parry's findings – his report was not submitted to pesticide regulators in Canada or elsewhere. In 2002-2003, Monsanto also effectively shut down a study it had commissioned on the dermal absorption of Roundup (i.e., the rate at which it penetrates skin, a key factor in the risk assessment of its potential health effects) when the preliminary results showed much higher dermal absorption rates than Monsanto had seen before.

47. Monsanto has also ghostwritten scientific papers, in effect manipulating and distorting the scientific discourse on glyphosate's carcinogenicity that is relied on by regulators and the public. Monsanto scientists were engaged in ghostwriting efforts by 1999 at the latest. Ghostwritten and improperly influenced studies include Williams (2000); Geisy (2000), Mink (2011); Mink (2012); Williams (2012); Kier & Kirkland (2013); Kier (2015); Bus (2016); and Chang (2016), as well as the post-IARC "expert panel" papers published in 2016. The Defendants have relied repeatedly on these papers as a basis of credible and independent support for their claims that glyphosate is not carcinogenic or genotoxic, and that Roundup is safe for a multitude of uses. The Defendants have relied on these studies as part of their efforts to convince the public and regulators, including the PMRA, of the same. Monsanto's involvement in this supposedly independent body of science only became public recently, as previously secret documents have been revealed through US trials about Roundup's role in causing cancer.

48. For example, in 2000, Williams et al published a scientific paper called "Safety evaluation and risk assessment of the herbicide Roundup and its active ingredient, glyphosate, for humans." The paper's conclusion was favourable to Monsanto, finding that Roundup use "does not pose a health risk to humans." However, the paper did not make clear that Monsanto scientists had effectively ghostwritten it.

49. The Monsanto staff involved in the ghostwriting efforts were lauded internally by their manager who understood how valuable the Williams (2000) paper would be to the regulatory "defense" of Roundup and the continued growth of Roundup sales and profits: "Our plan is now to utilize it both in the defense of Roundup and Roundup Ready crops worldwide"; "Please pass this note on to others in the Ag [Agricultural] organization who can utilize these references in defending or building Roundup sales." The CEO of Monsanto himself was aware of the ghostwriting efforts and explicitly endorsed them as "very good work." He asked to be kept in the loop as related public relations material was developed.

50. Publicly, Monsanto summarized the findings of the Williams (2000) paper in a press release without mentioning the involvement of its own scientists in its creation. As late as 2014, Monsanto was still updating its public summary of the study, claiming in bold type that its key findings include "**Glyphosate is not a carcinogen**." The Williams (2000) paper has been relied on by the PMRA and other regulators since its publication.

51. In addition to manipulating and distorting the base of publically available science on glyphosate's carcinogenicity, the Defendants have ghostwritten favourable editorials in newspapers and other publications, and engaged in extensive public relations and lobbying activity in support of their claim that Roundup does not cause cancer.

The Defendants Have Knowingly Falsely Proclaimed the Safety of Roundup and Glyphosate

52. The Defendants have known for decades that their claims with respect to the safety of Roundup and glyphosate were false. In 1996, the New York Attorney General filed a lawsuit against the Monsanto Company. It alleged that the Defendants had made false and misleading statements regarding the safety of Roundup. Specifically, the lawsuit challenged the representations that Roundup was "safer than table salt" and "practically non-toxic" to mammals, birds, and fish.

53. On November 19, 1996, the Monsanto Company entered into an Assurance of Discontinuance with the New York Attorney General in which it agreed, *inter alia*, "to cease and desist from publishing or broadcasting any advertisements [in New York] that represent, directly or by implication" that:

(a) its glyphosate-based products are non-toxic;

(b) its glyphosate-based products are harmless; and,

(c) use of or exposure to its glyphosate-based products is free from risk.

54. Despite agreeing to alter its advertising in New York State, the Defendants refused to alter their advertising in Canada in the same manner.

55. In Canada, the Defendants continue to make the false claim that glyphosate does not cause cancer. They continue to advertise Roundup being used incorrectly by home gardeners without any protective measures such as gloves, long-sleeved clothing, face shields, or any other safety measures. They continue to claim that Roundup "can be used safely and that glyphosate is not carcinogenic."

56. The Defendants have also knowingly under-studied the carcinogenicity of Roundup. Specifically, the Defendants have never undertaken long-term animal carcinogenicity studies on Roundup. On multiple occasions, staff scientists at Monsanto have privately warned the Defendants that "you cannot say that Roundup is not a carcinogen" because "we have not done the necessary testing on the formulation to make that statement"; or that "you cannot say that Roundup does not cause cancer – we have not done carcinogenicity studies with 'Roundup."

57. The labels for Roundup products marketed in Canada have never included warnings that the product causes cancer.

The PMRA's Regulation of Roundup and Glyphosate in Canada

58. The *Pest Control Products Act*, SC 2002, c 28 (the "Act") and its predecessors make it illegal to manufacture, possess, handle, store, transport, import, distribute or use an unregistered "pest control product" (i.e., pesticide) in Canada. Prior to the mid-1990s, the Act was administered by Agriculture Canada. Since 1995, it has been administered by the PMRA.

59. The Act also controls how pesticide manufacturers can present, advertise and display their products to the public. At all material times, it has been illegal under the Act to package, label or

advertise a pesticide in a manner that is false, misleading, deceptive or is likely to create an erroneous impression regarding its character, value, composition or safety.

60. To register a pesticide, the registrant must provide sufficient scientific evidence to allow for meaningful scrutiny of its effects on human health. The evidence for registration is provided by the proposed registrant, not the PMRA. Decisions to register a product are supposed to be based on sufficient studies and data that assure the PMRA that the pesticide will not cause unacceptable risks. Without sufficient evidence, registration must not be granted. Even where registration is granted, it is not a finding that the product is "safe."

61. Regulatory decisions to register Roundup in Canada have been undermined by, *inter alia*:

(a) the insufficiency, inaccuracy and/or dubious studies and data provided by the Defendants;

(b) failure to consider the third-party studies and data that demonstrate the risks that Roundup poses to human health;

(c) reliance on information provided by the Defendants that was false, misleading, incomplete or biased;

(d) reliance on studies and evidence that had not been subjected to scientific peer-review; and,

(e) failure to give significant weight to the risks that the pesticide poses to persons subjected to Significant Exposure.

62. The initial registration of glyphosate and Roundup was based solely on the same animal-based study of glyphosate's carcinogenicity that the EPA subsequently deemed invalid (after finding that Monsanto's contractor was engaging in scientific fraud). In subsequent decisions, including the PMRA's 2017 re-evaluation decision on glyphosate, the PMRA relied on studies that were surreptitiously ghostwritten and/or improperly influenced by the Defendants.

CAUSES OF ACTION

Negligence (Negligent Design)

63. At all material times, the Defendants owed a duty of care to the Plaintiff and Class Members to:

(a) properly research, develop, design, manufacture, test, distribute, sell and market Roundup;

(b) take all reasonable steps necessary to not manufacture, distribute, sell and market a product that was unreasonably dangerous to those who use it and/or are exposed to it;

(c) adequately test and study whether glyphosate and Roundup were carcinogenic before manufacturing, distributing, selling and marketing Roundup;

(d) adequately test and study the impacts of Significant Exposure to Roundup;

(e) when confronted with findings on key aspects of the risk assessment for glyphosate and/or Roundup that could impact human health, such as genotoxic potential or absorption rates, perform adequate tests and studies to confirm the import of such findings;

(f) ensure that Roundup products were safe and fit for intended and/or reasonably foreseeable use;

(g) ensure that Roundup products were at least as safe as alternative formulations, or alternative products or methods for controlling weeds;

(h) provide accurate, true, and correct information concerning the risks of Significant Exposure to Roundup and glyphosate;

(i) not withhold from government regulators and the general public information relevant to the assessment of the safety of Roundup and glyphosate; and,

(j) not misrepresent or falsely proclaim to government regulators and the general public the safety of Roundup and glyphosate.

64. The Defendants breached the standard of care expected in the circumstances, and were therefore negligent in the research, development, design, manufacture, testing, distribution, sale and marketing of Roundup products by, *inter alia*:

(a) designing and developing Roundup products with an active ingredient, namely glyphosate, that it knew or should have known is carcinogenic;

(b) designing and developing formulated Roundup products that it knew or should have known are carcinogenic, or would likely be found to be carcinogenic if adequately and properly tested;

(c) failing to undertake sufficient studies and conduct thorough and adequate pre- and post-market testing of glyphosate and formulated Roundup products to determine if they are carcinogenic;

(d) failing to design Roundup products to ensure they were at least as safe as alternative formulations of Roundup products, or alternative products or methods for controlling weeds; and,

(e) engaging in a consistent pattern of actions and omissions designed to impede, discourage, distort and/or delegitimize scientific inquiry into the carcinogenicity of glyphosate and Roundup.

65. At all material times, the Defendants knew or ought to have known that Significant Exposure to Roundup causes cancer, specifically Non-Hodgkin's lymphoma, and therefore creates a dangerous and unreasonable risk of injury to the Class. Furthermore, the Defendants knew or ought to have known that further testing and study was required in order to assess the safety of Roundup products.

66. By manufacturing, marketing, distributing, and selling Roundup while knowing or having reason to know of the dangers inherent in Roundup; and knowing or having reason to know that Significant Exposure to Roundup causes cancer, the Defendants failed to exercise the standard of

care required in the design, research, development, manufacture, testing, marketing, supply, promotion, advertisement, packaging, sale, and distribution of their Roundup products.

Negligence (Failure to Warn)

67. At all material times, the Defendants also owed a duty of care to the Plaintiff and Class Members to:

(a) properly, adequately, and fairly warn of the risks of Significant Exposure to Roundup, as well as the magnitude of these risks;

(b) ensure that users of Roundup as well as the general public were kept fully and completely informed of all defects and risks associated with Roundup in a timely manner;

(c) ensure that users of Roundup as well as the general public understood any and all safety precautions that could be taken to eliminate or mitigate the risks associated with Roundup; and,

(d) monitor, investigate, evaluate and follow up on reports and studies of possible risks associated with Roundup and/or its active ingredient, glyphosate.

68. The Defendants breached the standard of care expected in the circumstances, and were therefore negligent in the distribution, sale and marketing of Roundup without proper, adequate and fair warning of the risks to health associated with Significant Exposure to Roundup by, *inter alia*:

(a) failing to disclose to the Plaintiff, Class Members and the general public that glyphosate and Roundup products are carcinogenic;

(b) failing to provide the Plaintiff, Class Members and the general public with proper, adequate and/or fair warning of the full risks associated with Significant Exposure to Roundup, including increased risk of Non-Hodgkin's lymphoma;

(c) failing to properly, adequately and fairly warn the Plaintiff, Class Members, and the general public of the unreasonable risks of using Roundup products in manners that were either directed or foreseeable;

(d) failing to warn the Plaintiff, Class Members, and the general public that there are safer and effective alternatives to Roundup available; and,

(e) engaging in efforts to manipulate, suppress and distort the scientific discourse on whether glyphosate and Roundup cause cancer, thereby sowing confusion and doubt publically about the state of the science and impeding the ability of regulators to assess glyphosate and Roundup.

69. The Defendants knew or ought to have known that users of Roundup as well as the general public were unaware of the risks and the magnitude of the risks caused by Significant Exposure to Roundup.

70. By manufacturing, marketing, distributing, and selling Roundup products while failing to adequately warn of the dangers and risks associated with Significant Exposure, the Defendants failed to exercise the standard of care required in the design, research, development, manufacture, testing, marketing, supply, promotion, advertisement, packaging, sale, and distribution of their Roundup products.

71. Despite the Defendants' ability and means to investigate, study, and test their Roundup products, and to provide adequate warnings of the risks associated with them, the Defendants failed to do so. Instead, the Defendants wrongfully concealed information, manipulated and distorted the public scientific discourse on glyphosate, and made false and/or misleading statements with respect to the safety of Roundup and its active ingredient, glyphosate.

72. The Plaintiff and Class Members did not know the nature and extent of the injuries that could result from the intended and foreseeable uses of and/or exposures to Roundup and its active ingredient, glyphosate. They would not have allowed themselves to be subjected to Significant Exposure had they known of the risks.

73. The injuries, harm, and economic losses suffered by the Plaintiff and Class Members were caused by the negligence of the Defendants, their servants and their agents.

74. The Plaintiffs plead and rely upon the provisions of the *Negligence Act,* RSO 1990, c N 1.

RELIEF SOUGHT

Damages

75. As a result of the Defendants' negligence, the Plaintiff and Class Members have suffered damages, including but not limited to: pain, suffering and loss of enjoyment of life; loss of employment income and benefits; extraordinary past and future medical expenses; and, any applicable out-of-pocket expenses.

76. As a result of the Defendants' negligence, individuals in Canada who are the living spouse, child, grandchild, parent, grandparent, or sibling of a Non-Hodgkin's Lymphoma Class Member have suffered damages, including but not limited to: expenses reasonably incurred for the benefit of family members who developed cancer; travelling expenses incurred while visiting family members during treatment or recovery for cancer; the value of services provided to family members with cancer; loss of support, guidance, care, and companionship; dependency losses; and, co-habitation losses.

77. Some of the medical expenses for the Plaintiff's and Class Members' treatment have been and will continue to be paid by the Ontario Health Insurance Plan and the respective provincial health insurers in other provinces. As a result of the Defendants' negligence, the various provincial health insurers have suffered and will continue to suffer damages for which they are entitled to be compensated by virtue of their rights of subrogation. The Plaintiff and Class claim for these damages.

Punitive damages

78. The Plaintiff and Class claim for punitive damages as a result of the egregious, outrageous and unlawful conduct of the Defendants, and in particular, their callous and reckless disregard for the health and lives of those who use and/or are exposed to Roundup in Canada.

79. In particular, punitive damages are justified because of the Defendants' manipulation and suppression of scientific research on whether glyphosate and Roundup cause cancer. The Defendants relied on invalid studies, ghostwrote supposedly "independent" scientific papers that favoured their interests, buried unfavourable findings, pressured regulators, and engaged in bad faith attacks on the institutional integrity and substantive findings of the IARC. The Defendants have sought to sow confusion and doubt in the public about the state of the science. All the while, the Defendants have consistently grown the revenue and profits received from sales of their Roundup products. An award of punitive damages would help deter the Defendants and others from similar conduct in the future.

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JEFFREY DEBLOCK et al.
Plaintiff

and

MONSANTO COMPANY et al
Defendants

Court File No.: 699/19

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at London

SECOND FRESH AS AMENDED STATEMENT OF CLAIM

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