



CALIFORNIA FARM BUREAU FEDERATION

LEGAL SERVICES DIVISION

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September 21, 2020

Via U.S. Mail and E-filing

The Honorable Tani Gorre Cantil-Sakauye, Chief Justice
The Honorable Associate Justices
Supreme Court of the State of California
350 McAllister Street
San Francisco, California 94102

Re: Dewayne Johnson v. Monsanto Company
Cal. Supreme Court Case No. S264158
Amicus Letter in Support of Petition for Review

Dear Chief Justice Cantil-Sakauye and Associate Justices:

The California Farm Bureau Federation (“Farm Bureau”) writes to respectfully urge the California Supreme Court to accept review of the above-captioned case from the Court of Appeal, First Appellate District, Division One.

Farm Bureau is California’s largest farm organization, working to protect family farms and ranches on behalf of its 34,000 members statewide and as part of a nationwide network of more than 5.5 million members. Organized over 100 years ago as a voluntary, nongovernmental, and nonpartisan organization, it advances its mission throughout the state together with its 53 county Farm Bureaus. Farm Bureau’s purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home, and the rural community. Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California’s resources. To that end, Farm Bureau is involved in efforts to protect the resources of the state, including air and water quality, and advocates regularly in state and federal legislative, regulatory, and judicial matters on behalf of its members for the preservation of agricultural land and the protection of private property rights which underpin agricultural production.

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Further, Farm Bureau supports responsible farming and proper use and application of crop protection tools and respects the health and welfare of those throughout the state. Farm Bureau actively participates in state and federal legislative, regulatory, and judicial advocacy relating to pesticide regulation, registration, labeling, and use on behalf of its members.

Given the importance and need of available agronomically important pesticides, this case, *Dewayne Johnson v. Monsanto Company*, raises an issue of vital concern to the membership of Farm Bureau. Members of Farm Bureau are farmers and ranchers who utilize and depend on crop protection tools to grow food and fiber. Specifically, these members have a proprietary interest in their farming operations and the ability to protect their land and crops from damage caused by the introduction or spread of harmful weeds, pests, and diseases. As such, it is critical that there is clarity, consistency, and strict adherence to the statutory and regulatory requirements governing federal pesticide regulation and mandatory pesticide labeling requirements pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. §§ 136-136y. Specifically, this Court should consider review of this case in order to clarify expressed and implied preemption under FIFRA for state failure-to-warn claims and design defect claims. Review is needed to resolve issues regarding when state tort claims are inconsistent with FIFRA's product labeling requirements and misbranding provisions, particularly when state warning label obligations would be more expansive than what is required under FIFRA and/or conflict with federally approved pesticide labels.

Farmers and ranchers fear that the Appellate Court's decision in *Dewayne Johnson v. Monsanto Company* will erode the highly regulated and controlled pesticide registration process pursuant to FIFRA, resulting in the inability to rely upon FIFRA's labeling requirements of crop protection tools and potential liability even when following a properly registered pesticide product label. This inability threatens reliance on the use of crop protection tools, hinders farming practices, and restricts the ability to respond to weed and pest infestations which otherwise can be detrimental to the safety and welfare of the state.

Accordingly, Farm Bureau respectfully requests the Supreme Court to review the Appellate Court's decision in *Dewayne Johnson v. Monsanto Company* in order to clarify the proper scope of preemption and whether state law tort claims such as the ones at issue here are preempted under FIFRA.

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We thank the Court for its consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kari Fisher", written in a cursive style.

Kari E. Fisher
Senior Counsel
California Farm Bureau Federation

PROOF OF SERVICE

I, Bridget Cartier, declare as follows:

I am a resident of the State of California, residing or employed in Sacramento, California. I am over the age of 18 years and am not a party to the above-entitled action. My business address is 2600 River Plaza Drive, Sacramento, CA 95833.

On September 21, 2020, I served true copies of the following document(s) described as AMICUS LETTER BRIEF OF CALIFORNIA FARM BUREAU FEDERATION PETITION FOR REVIEW on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the practice of Farm Bureau for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am a resident or employed in the county where the mailing occurred. The envelope was placed in the mail at Sacramento, California.

BY ELECTRONIC SERVICE: I electronically filed the document(s) with the Clerk of the Court by using the TrueFiling system. Participants in the case who are registered users will be served by the TrueFiling system. Participants in the case who are not registered users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 21st day of September 2020, at Sacramento, California.

/s/ Bridget Cartier
Bridget Cartier

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SERVICE LIST
Johnson v. Monsanto Company
Case No. S264158

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<p>California Court of Appeal First Appellate District, Division One 350 McAllister Street San Francisco, CA 94102</p>	<p>Case No. A155940 & A156706 <i>Via TrueFiling</i></p>
<p>Honorable Suzanne Bolanos San Francisco County Superior Court 400 McAllister Street San Francisco, CA 94102</p>	<p>Trial Judge Case No. CGC16550128 <i>Via U.S. Mail</i></p>