



September 28, 2020

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Chief Justice Tani Gorre Cantil-Sakauye & Associate Justices
Supreme Court of California
350 McAllister Street
San Francisco, CA 94102-4797

Re: Johnson v. Monsanto Co., No. S264158

Dear Chief Justice Cantil-Sakauye & Associate Justices:

The National Association of Landscape Professionals on behalf of the landscape industry respectfully requests the California Supreme Court to grant the petition for review filed by Monsanto Company on August 31, 2020 in the above-referenced appeal.

NALP is the national trade organization representing the \$99 billion landscape industry in the United States. Member companies specialize in lawn care, landscape maintenance, tree care, irrigation and water management. Landscape professionals throughout the nation work daily servicing homes and businesses to maintain their landscapes, sustain the environment and take pride in our communities by enhancing and maintaining healthy green spaces. NALP understands the important role glyphosate plays in managing landscapes and delivering crops, and we are committed to promoting safe and effective use based on scientifically supported decisions made by the U.S. Environmental Protection Agency (EPA). NALP members are licensed and certified pesticide applicators that use glyphosate and other products in a safe and environmentally responsible manner.

Ensuring the safety, health and well-being of our members, their employees, the general public and the environment is the top priority of NALP. Our association fully supports documented research conducted by regulatory bodies and the established framework for the regulation of pesticides in the United States through the Federal Insecticide Fungicide and Rodenticide Act (FIFRA) 7 U.S.C. §§ 136-136y, and we continually and closely monitor for regulatory and research developments. FIFRA prescribes and implements a robust federal and state pesticide registration and review process. NALP believes this process is the foundation for our industry to responsibly manage landscapes using federally and state approved pesticides. The landscape industry relies on regulators, as the experts, to make sound scientific decisions on pesticide registration approvals.

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The decision in *Johnson v. Monsanto Co.* raises a conflict that could potentially undermine FIFRA as the cornerstone of how the landscape industry uses federal and state approved pesticides. The Appellate Court's decision alleges that Roundup®, containing the active ingredient glyphosate, failed to warn it causes cancer on the federally approved label. This conclusion is in direct conflict with volumes of peer reviewed scientific conclusions reached by a majority of global pesticide regulatory authorities, but most importantly the determination made by EPA. Researchers at EPA have continuously validated glyphosate's safety since it was introduced in the 1970s. Beginning with the initial registration with EPA in 1974, glyphosate has been evaluated and approved for use by EPA in 1986, 1993 and 2017 – spanning several decades and federal administrations.

The decision by the Appellate Court in *Johnson v. Monsanto Co.* could undermine science and the FIFRA process which is critical to provide clarity and consistency for members of the landscape industry that use EPA approved pesticides. Without review of the Appellate Court decision the use of any EPA approved pesticide could be questioned and further litigated by courts and public opinion rather than federal and state regulators operating under the vigorous pesticide review process prescribed by FIFRA.

In addition to the potential erosion of FIFRA, the decision in *Johnson v. Monsanto Co.* also raises a question of preemption with regards to federally approved labels and state failure-to-warn claims under state tort laws. Pursuant to FIFRA landscape professionals apply pesticides under the notion that the label is the law yet the Appellate Court decision would shatter this notion and set a precedent that would enable litigants to find liability based on provisions that are not included on the label. Recently, EPA reaffirmed federal preemption with regards to federal labels by issuing a warning to registrants of glyphosate that a cancer warning under California's Proposition 65 would violate federal law. NALP believes that this court needs to review this preemption question to reinforce the legitimacy of FIFRA.

NALP appreciates the opportunity to address this honorable court and respectfully requests that this Court grant review for the reasons stated in this letter in addition to Monsanto's petition for review.

Sincerely,

A handwritten signature in black ink, appearing to read 'Britt Wood', written in a cursive style.

Britt Wood
Chief Executive Officer
National Association of Landscape Professionals

PROOF OF SERVICE

I, Britt Wood, declare as follows:

I am a resident of the State of Virginia, employed in Fairfax, Virginia. I am over the age of 18 years and am not a party to the above-entitled action. My business address is 12500 Fair Lakes Cir, Suite 200 Fairfax VA 22033.

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

SEE ATTACHED SERVICE LIST

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 28th day of September 2020, at Fairfax, Virginia.

/s/ Britt Wood
Britt Wood

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SERVICE LIST
Johnson v. Monsanto Company
Case No. S264158

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