

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

IN RE: ROUNDUP PRODUCTS  
LIABILITY LITIGATION

MDL No. 2741

Case No. 16-md-02741-VC

**PLAINTIFFS' MOTION TO COMPEL  
RESPONSES FROM DEPONENT  
JESUDOSS ROWLAND**

**Date: May 25, 2017**

**Time: 2:00pm**

**Ctrm: 4, 17<sup>th</sup> floor**

**Hon. Vince Chhabria**

This document relates to:

ALL ACTIONS

**PLAINTIFFS' MOTION TO COMPEL RESPONSES FROM DEPONENT JESUDOSS  
ROWLAND**

1           In the absence of scientific evidence to support its claim that Roundup does not  
2 cause non Hodgkin lymphoma, Monsanto has relied overwhelmingly on the conclusions  
3 of the EPA, specifically a report engineered and authored by Jesudoss Rowland, a former  
4 employee within the Office of Pesticide Programs (OPP). Mr. Rowland is not a medical  
5 doctor, has no PhD., was not trained in nor worked in the fields of epidemiology or  
6 toxicology, and did not include any medical doctors in his review process and report on  
7 Glyphosate. As is now a matter of public record, this was leaked two weeks prior to Mr.  
8 Rowland's retirement.

9  
10           Plaintiffs deposed Mr. Rowland on April 24, 2017, after nearly a year of  
11 correspondence, negotiation and litigation on the subject. At deposition, Mr. Rowland  
12 refused to answer the simple question of whom he has been working for post-EPA  
13 departure.

14  
15           Plaintiffs filed a request for the Court to compel testimony from Mr. Rowland during  
16 the deposition. Following the Court's ruling, the witness was compelled to, and did,  
17 identify three companies for whom he performs "consulting" work since his May 2016  
18 retirement from the government. Plaintiffs now seek answers to the follow-up questions,  
19 which he refused to answer; undersigned counsel asserts that Mr. Rowland's connection  
20 to Monsanto is only just beginning to come to light. Plaintiffs, and the public, have a right  
21 to determine if there was an explicit, or implicit quid pro quo between Monsanto or its  
22 associates and Mr. Rowland, as the documents suggest. As but one example, on March  
23 14, 2015 (the day Mr. Rowland communicated the classification of IARC to CropLife and

1 Monsanto, in direct contravention to IARC rules and information embargo), Monsanto  
2 executive Jennifer Listello wrote internally [REDACTED] (Ex  
3 1, MONGLY03293245 et seq., at MONGLY03293247)  
4

5 At the outset of the deposition, lead counsel for the witness, William Lawler, Esq.  
6 instructed him not to answer the question “What is the name of the contractor?”(Ex. 2,  
7 rough draft of Rowland transcript, at 10:22-25). Mr. Lawler then stated on the record a  
8 “proffer:”  
9

10 **...as we proffered it’s unrelated to the chemical industry, we’re not**  
11 **going to let him answer those.**  
12

13 (Id. at 11:15-18) .The Court joined the deposition telephonically and heard Mr.  
14 Lawler’s argument and ruled “I don’t agree with that. So I’m ordering Mr. Rowland  
15 to identify the companies for whom he’s doing consulting work.” Id. at 209:13-16.  
16 Following the call, the Court issued Pre-Trial Order No. 19: “Mr. Rowland is  
17 ordered to answer questions about the identities of the companies for which he  
18 has done consulting work since leaving the EPA and questions eliciting a very  
19 general description of the projects he has worked on.”  
20

21 Following the Court’s ruling, Plaintiffs again asked Mr. Rowland the  
22 identities of the entities he consults for. Almost unbelievably, he immediately

1 named three chemical companies, and confirmed that his work for them  
2 concerned chemicals:

3

4 Q. Is your work with [REDACTED]  
5 [REDACTED] concerning a chemical?

6 A. Yes.

7 Q. And is your work with [REDACTED]  
8 regarding a chemical?

9 A. Yes.

10 Q. I'm sorry, can't hear you?

11 A. Yes.

12 Q. And is your work with [REDACTED]  
13 regarding a chemical?

14 A. Yes. .

15 (Id. at 249:3-13).

16

17 Mr. Rowland's counsel was well aware of these facts and yet represented  
18 to all parties that Mr. Rowland's work was "unrelated to the chemical industry."  
19 The three companies for which the witness now works are close associates of  
20 Monsanto [REDACTED]. In light of this  
21 misrepresentation and the witness' refusal to answer follow-up questions directly  
22 related to the purpose underlying the Rowland deposition, , Plaintiffs request that  
23 Mr. Rowland be compelled to answer the questions he continued to refuse to

1 answer following the Court's ruling that day. Given the misrepresentations made  
2 in this matter, the Court will understand Plaintiff's difficulty in trusting Mr. Rowland's  
3 conclusory answers about his work. Furthermore, he refused to answer some  
4 questions in direct contravention of the Court's Order that day.

5

6 The questions are set forth below.

7

8

9 22 Q. And when did you start working

10 23 for [REDACTED]

11 24 MR. LAWLER: I think the

12 25 work -- I'll object the Court order's

13 2 says that the names of the -- the

14 3 identities of the companies and

15 4 questions listing a very general

16 5 description of the projects he's

17 6 worked on.

18 7 MR. MILLER: You're instructing

19 8 the witness not to answer when he

20 9 started working at [REDACTED]

21 10 MR. LAWLER: Yep.

22 (Id at 243:22-244:10)

23

1 9 Q. I didn't ask, but I'm asking  
2 10 you is for a new product or a product that's  
3 11 already on the market?

4 12 MR. LAWLER: I'm going to  
5 13 instruct you not to answer that.

6 (Id. at 245:4-13)

7

8 5 Q. And when did you start working  
9 6 for [REDACTED]

10 7 MR. LAWLER: I'm going to  
11 8 instruct you not to answer that.

12

13 (Id. at 246:5-8)

14

15 Q. And what is a general

16 [REDACTED] 15 description of your work for [REDACTED]

17 [REDACTED] [REDACTED]

18 17 A. I review studies, not  
19 18 glyphosate.

20 19 Q. Studies concerning chemicals  
21 20 that they make?

22 21 MR. LAWLER: I'm going to  
23 22 instruct you not to answer that.

1

2 (Id. at 246:14-22)

3

4 Q. What is a general description

5 14 of the work you do for [REDACTED]

6 15 A. Providing guidance or

7 16 registration process.

8 17 Q. On registration process for

9 18 what? A chemical?

10 19 MR. LAWLER: Instruct not to

11 20 answer that. Does it have anything to

12 21 do with glyphosate.

13 22 THE WITNESS: No, it's not

14 23 glyphosate.

15 24 MR. MILLER: That's exactly

16 25 what the Court ruled you cant do so

17 2 we're going back on a motion to

18 3 compel.

19

20 (Id at 247:14-248:3)

21

22 3 Q. Yeah, we're on the same page.

23 4 The [REDACTED]

1 5 member companies, [REDACTED],  
2 6 that's the company that you work for now,  
3 7 right?

4 8 MR. LAWLER: Objection to  
5 9 foundation. He testified he has  
6 10 worked for them. He hasn't testified  
7 11 he's currently doing it.

8 12 QUESTIONS BY MR. MILLER:

9 13 Q. Let me rephrase.

10 14 Have you worked for [REDACTED]  
11 15 [REDACTED] since you left EPA in May  
12 16 of 2015?

13 17 MR. COPLE: Objection. Asked  
14 18 and answered.

15 19 MR. LAWLER: Have you?

16 20 THE WITNESS: Yes.

17 21 QUESTIONS BY MR. MILLER:

18 22 Q. Okay. [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 25 Do you see that?

22 2 MR. COPLE: Objection. Lacks  
23 3 foundation.



1 4 MR. LAWLER: It's just what you

2 5 see.

3 6 THE WITNESS: Yeah, I see this.

4 7 QUESTIONS BY MR. MILLER:

5 8 Q. How did [REDACTED]

6 9 find out you were available for employment?

7 10 MR. COPLE: Objection.

8 11 Argumentative.

9 12 MR. LAWLER: Yeah, objection.

10 13 He wasn't answer that.

11 14 MR. MILLER: You instruct him

12 15 not to answer?

13 16 MR. LAWLER: I do.

14 (Id at 264:24-265:24)

15

16 8 Q. Do you bill by the hour for

17 9 your employment for these three companies?

18 10 A. Yes.

19 11 Q. And how much an hour do you

20 12 bill?

21 13 MR. LAWLER: Object. Instruct

22 14 not to answer.

23 (Id. at 273:8-14)

1

2           The purpose of this deposition was to examine the propriety of the Office of  
3 Pesticide Programs', and Mr. Rowland's specifically, relationship with Monsanto and  
4 assessment of glyphosate. Monsanto's production of documents suggests that Mr.  
5 Rowland went out of his way to benefit Monsanto's business. The remaining questions  
6 that the witness refused to answer are relevant to the reasons why EPA engaged in this  
7 relationship.

8

9           Plaintiffs must be permitted to explore further the nature of this work and how he  
10 came into it. Undersigned counsel requests an Order compelling Mr. Rowland to answer  
11 the foregoing questions, as well as related questions about the nature of this work, when  
12 he was first contacted about this work, by whom, how much he has been paid, and other  
13 basic factual inquiries, which are violative of no privilege. Without that information,  
14 Plaintiffs will still be fighting Monsanto's "EPA defense" with two hands tied behind their  
15 backs.

DATED: April 28, 2017

Respectfully submitted,

/s Robin Greenwald, Michael Miller and  
Aimee Wagstaff

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### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on April 28, 2017 I electronically filed this Opposition using the CM/ECF system which will send a notification of such filing to counsel of record.

/s/ Michael Miller