IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

RANDALL KING, SCOTT BUTTERFIELD, ROBERT KOEHLER, MICHAEL MERX, and BRUCE WALDMAN,	Case No. 2622-CC00325-01
Plaintiffs,	Division 8
v.	
MONSANTO COMPANY,	
Defendant.	

OBJECTORS' REPLY IN FURTHER SUPPORT OF OBJECTIONS TO THE PROPOSED CLASS SETTLEMENT

COME NOW forty-seven Settlement Class Members[1] and as many as one thousand Involuntary Class Members[2] (collectively, "Objectors"), and for their further submission in support

[1] The individual Objectors are: Gina Arzaga, Geoffrey Bell, Michael Blanchette, Suzanne Edwards Brean (for Clark Brean, Dec'd), James Brekke, John Chapman, Herbert Cook, Donald Cusick, Rick Cutlip, Carol Distefano (for Vincent DiStefano, Dec'd), Caroline Duchscher, Mark Fallon, Jon Ferguson, Gary Frutkoff, Randal Gray, William Hamaker, Benita Taylor (for Joyce Hanna, Dec'd), Harry Harned, Thomas Hoffman, Brenda Ilene Jackson, Alan Jolin, Erria Kaalund (for Bruce Kaalund, Dec'd), Ghassan Kandah, Jesse Kauffman, Brian Keith King, Robert Lavretta, Timothy Lawrence, Bradford Lepp, Robert McGrath, Nicole Moreland, Paul Joseph Muensterman, Angel Obregon, Susan Palombo, Kathleen Pavek, John Joseph Pernik, William Poindexter, Janet Ponsock, Jackie Presley (for Bryan Presley, Dec'd), Nicole Rogers, Craig Salter, Joseph Paul Shuman, Betty Slaughter, Melissa Vanella, Denise Willhite, David Williams, Gloria Jean Williams, William Bourbon White, Joann Winter (for Raymond Winter, Dec'd), and Aaron Woodring.

[2] The Involuntary Class Members have submitted opt-out requests but, per the Proposed Settlement's terms, their opt-outs purportedly remain open to challenge by Monsanto and Class Counsel through today's date, July 29, 2026. Seventy Involuntary Class Members have seen their opt-out forms rejected by the Claims Administrator and are pursuing remedies from these improper rejections in parallel with these objections. Those known to have submitted opt-out forms at the time of this filing are individually listed in Exhibit A to the "Objections of Involuntary Class Members to Proposed Class Settlement," filed by the undersigned counsel. If the Claims Administrator informs counsel that an Involuntary Class Member's opt-out has been conclusively accepted, subject to no further challenge or appeal by Monsanto or Class Counsel, counsel will withdraw that client as an Objector.

of their Objections to Monsanto and Class Counsel's Proposed Class Action Settlement, and in response to their Joint Motion for Entry of the Final Approval Order and Suggestions in Support, state as follows.

INTRODUCTION

After more than a decade of lawsuits over the impact of Monsanto's misconduct, and fifty years since Monsanto started selling its cancer-causing pesticide to unwitting consumers, many people, including Objectors and their counsel, share a desire for finality and closure, on fair terms. Regrettably, the class action settlement proposed by Monsanto and Class Counsel is not the way to get there.

It matters that the Proposed Settlement is rife with illegality and is an abuse of the class action form. Monsanto and Class Counsel would brush these defects off as "arcane quarrels" (Final Approval Mot. at 22), but they go to the heart of why what is being done here is wrong. There are many reasons that personal injury cases of this kind—in particular, though not exclusively, those that seek to resolve the claims of 'futures' claimants who have not yet become sick or injured—simply cannot be resolved on the class wide basis proposed here. These fall under the headings of the Supreme Court's teachings in *Amchem*,[3] several prongs of Rule 52.08, and constitutional due process. *E.g.*, Brief in Support of Objections to Proposed Class Action Settlement of Gina Arzaga et al., *King v. Monsanto Co.*, Case No. 4:26-cv-00813-HEA (E.D. Mo. June 4, 2026) ("Objectors' Opening Brief"), at 17–23. Class Counsel are not just trying to settle the claims of their own clients, or those of the law firms that agree with them, but also the claims of other law firms' clients and people with no lawyers or law firms at all, based on deficient and in many cases nonexistent notice, and with flawed and deliberately onerous opt-out procedures as the only safety valve. What gives

[3] *Amchem Prods., Inc.* v. *Windsor*, 521 U.S. 591 (1997).

them that right? Not Rule 52.08 nor the Constitution, which confirm that Class Counsel never had that right to begin with.

This is not how other mass torts are settled, and for good reason. For example, just this week, a proposed settlement of the Johnson & Johnson talc litigation was put forward by Class Counsel Chris Seeger, among others.[4] Based on media reporting, it appears that this proposed resolution is not designed to trap people into a class settlement they don't even know about but rather requires participants ***to affirmatively opt into participating***; does not involve a capped fund, but rather would make payments based on claims made; and strictly excludes future claimants.[5] Objectors and their counsel express no views on the merits of the J&J settlement, which is not before this Court and the details of which are unfolding, but it underscores that the Proposed *King* Settlement does not reflect the inevitable or only means of resolving a mass tort, whatever Monsanto and Class Counsel say.

It matters too that this Court does not have jurisdiction to sweep into the proposed nationwide class people from around the country who have never set foot in Missouri or filed a case here. Objectors' Opening Brief at 17–21. What's more, as of the date of this filing, jurisdiction over this case lies not with this Court, but with the United States Court of Appeals for the Eighth Circuit. *King v. Boylan*, Case No. 26-2217 (8th Cir.) (appeal docketed June 18, 2026). Entering an *ultra vires* settlement order that is void for lack of jurisdiction twice over is not the way to put

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[4] Dietrich Knauth, *J&J Reaches Sweeping Talc Deal That Could End Decade of Litigation*, Reuters (Jul. 28, 2026), https://www.reuters.com/business/healthcare-pharmaceuticals/johnson-johnson-announces-55-billion-settlement-talc-lawsuits-2026-07-27/.

[5] *See id.* ("Chris Seeger, an attorney who represents about 2,500 clients with talc claims and helped negotiate the agreement, said J&J could ultimately pay $7 billion or more. The settlement assigns specific values to qualifying ovarian cancer claims but does not cap J&J's total payout, he said.").

legal disputes to rest, but rather ensures that collateral litigation will drag on and cloud the effect of whatever order may be entered.

It also matters that, just three weeks from the noticed hearing date of August 19, Class Counsel admit that they have not finished their homework in setting up basic medical lien protections that are a required step of any responsible mass personal injury resolution. Class Counsel claim that "progress . . . has been made by Wolf Global [the Healthcare Compliance Administrator under the Proposed Settlement] towards developing the details of a comprehensive healthcare compliance program." Final Approval Mot. at 151. This apparently consists of "significant outreach and engage[ment]," and several meetings and phone calls, *id.*, but with no detailed agreement or even agreed-upon framework for protecting payments to class members from being swallowed whole by insurers. While Objectors appreciate the Proposed Settlement Special Master's efforts in working to resolve these critical issues, Class Counsel have not laid the groundwork to proceed when the rights of hundreds of thousands of people are at risk of being negatively impacted. This makes it impossible for the Court to assess whether class members will receive fair compensation. To finalize the Proposed Settlement in this state would jeopardize the ability of countless class members to recover anything.

Objectors have explained in detail many of the Proposed Settlement's incurable problems, as many other objectors have done and will do. Objectors will not repeat these arguments here, though they preserve and incorporate them. Suffice it to say that Monsanto and Class Counsel's 200+-page motion and hundreds of pages of exhibits in support of final approval do not rescue this illegal and ill-considered Proposed Settlement. This is not, and should not be, a class action; this Court lacks the authority to sign off on the settlement that Monsanto and Class Counsel have requested; and the Proposed Settlement is in no state to go forward when medical liens threaten to swallow up countless class members' recoveries entirely. Final settlement approval should be denied.

Objectors briefly address several other issues below, focusing on new evidence and argument advanced in the Final Approval Motion and its supporting papers.

ARGUMENT

I. Monsanto and Class Counsel Misstate and Overstate the Impact of the *Durnell* Decision.

The Final Approval Motion prominently and repeatedly argues that the United States Supreme Court's recent decision in *Monsanto Co. v. Durnell*[6] confirms that the Proposed Settlement is fair and provides adequate compensation. Final Approval Mot. at 21–23, 27–28, 42, 67, 74, 95–98, 100–06, 165–67, 181–82, 191–95. They warn that *Durnell*, "at a minimum, makes it significantly more difficult to litigate other Roundup claims, and potentially preempts them altogether." *Id.* at 42. This misstates the holding and impact of *Durnell*, which concerned only one type of claim among many at issue in Roundup cases—label-based failure-to-warn claims—and did not shield Monsanto and Bayer from their very real liability for causing countless Americans to develop cancer.

At the *Durnell* oral argument, Justice Barrett asked Monsanto's counsel, Paul Clement, directly whether design defect claims are preempted. He stated they are not. In his response, Monsanto's counsel distinguished medical device jurisprudence, stating that there is "an important difference from this context [FIFRA] and the medical device amendments context, which is although they're worded similarly, the preemption clause in the medical device amendments sweeps in design defect claims. And here it's really just on labeling." *Monsanto Company v. Durnell*, No. 24-1068, Transcript of Oral Argument, April 27, 2026, at 31–32, *available at*

[6] 609 U.S. ___, No. 24–1068, slip op. (June 25, 2026).

https://www.supremecourt.gov/oral_arguments/argument_transcripts/2025/24-1068_fcgj.pdf. The United States Deputy Solicitor General agreed with Mr. Clement, further noting that such claims survive "as *Bates* itself recognizes." *Id.* at 49–50.

While *Durnell* held that label-based failure to warn claims are preempted, both these admissions and the *Durnell* decision itself reaffirmed that an earlier Supreme Court decision about FIFRA preemption, *Bates v. Dow Agrosciences, LLC*, 544 U.S. 431 (2005), continues to govern the potential federal preemption of state-law claims that are not based on a duty to provide warnings to pesticide and herbicide users using the labeling of the pesticides and herbicides themselves. *E.g.*, *Durnell*, No. 24-1068, 2026 WL 1825691, at *1, *3, *6 (U.S. June 25, 2026) (reaffirming *Bates*). This is important because *Bates* is clear that FIFRA has no bearing on these claims. *Durnell* left untouched *Bates*'s determination that "[r]ules that require manufacturers to design reasonably safe products, to use due care in conducting appropriate testing of their products, to market products free of manufacturing defects, and to honor their express warranties or other contractual commitments plainly do not qualify as requirements for 'labeling or packaging.'" *Bates*, 544 U.S. at 444 (holding that "petitioners' claims for defective design, defective manufacture, negligent testing, and breach of express warranty are not pre-empted" by FIFRA). Despite the Final Approval Motion's posturing to the contrary, Monsanto continues to have a serious Roundup liability problem even after *Durnell*. Juries have repeatedly held Monsanto accountable not only for failing to warn its customers, but also for selling them a dangerous and defective product that caused them to develop cancer, and nothing in *Durnell* says that these bad acts are immune from suit.

Nor is *Durnell* a get-out-of-jail free card for the many unremedied procedural and constitutional offenses committed by the Proposed Settlement. Even to the extent *Durnell* has made at least one liability theory different to prove,[7] this has no effect on, among other things, the constitutional and statutory requirements to provide class members with adequate notice and a meaningful right to opt out; or the obligation to put forth class representatives who can adequately represent the class and all of its subclasses; or that classes can only be certified where a class action is superior to other available methods for fairly and efficiently adjudicating the controversy, because damages are so highly individual. *See* R. 52.08(b)(3); *Amchem*, 521 U.S. at 622–25. The Proposed Settlement did not meet these requirements before or after *Durnell* was decided.

II. Class Counsel's New Evidence Does Not Rehabilitate the Settlement.

Class Counsel proffer several declarations and supporting exhibits in support of their claims that the Proposed Settlement satisfies the procedural requirements for final approval. These do not withstand scrutiny, and in some instances raise additional concerns, as in the Wolf Global submission revealing the lack of a cohesive plan for relief from medical liens. *See* Introduction, *supra*. Other key points are summarized below. Here as elsewhere, Objectors' counsel reserve further argument should a final approval hearing proceed in this case.

A. Class Counsel's Expert Testimony Fails to Show Fair or Reasonable Settlement Terms.

The Final Approval Motion relies heavily upon the 85-page declaration of a law professor, Robert Klonoff. Declaration of Professor Robert H. Klonoff Assessing the Proposed Nationwide Class Settlement in the Roundup Litigation, dated July 15, 2026 ("Klonoff Dec."). Much of Professor Klonoff's declaration sets forth talking points and advocacy far afield of his stated

[7] Even as to failure-to-warn claims, *Durnell* does not hold that misleading advertising and promotional warning claims are preempted. They are not. *See Bates*, 544 U.S. at 444 n.17 ("To the extent that petitioners' warranty and fraud claims are based on oral representations made by Dow's agents, they fall outside the text of § 136v(b) for an independent reason. Because FIFRA defines labeling as 'all labels and all other written, printed, or graphic matter' that accompany a pesticide, § 136(p)(2), any requirement that applied to a sales agent's ***oral*** representations would not be a requirement for 'labeling or packaging.'") (emphasis in original).

background in matters of class action procedure, opining on, for example, the legal landscape following *Durnell*, and Monsanto's odds of filing for bankruptcy based on a newspaper article that he read. Klonoff Decl. ¶¶ 20, 34, 63, 90–92, 93. This testimony should be given no weight because it is outside of Professor Klonoff's expertise, comprises legal opinion that is the domain of the Court, or both. *See Howard v. City of Kansas City*, 332 S.W.3d 772, 785 (Mo. banc 2011) ("Generally, 'the opinion of an expert on issues of law is not admissible.'").

The foundation of Professor Klonoff's opinion that the Proposed Class Settlement is fair and reasonable is quicksand. His opinion is built on unfounded assumptions, including that class members will receive 90% of the settlement funds. Klonoff Decl. ¶¶ 104–06 & n.57 ("about 90 percent of the multibillion-dollar settlement will go to the class"). The series of faulty assumptions in Professor Klonoff's declaration appear to follow from the faulty source materials that Class Counsel directed him to use to form his opinions. Klonoff Decl. ¶ 16. As explained below, his conclusions are flawed for several reasons.

First, the percentage of funds to be received by class members must be considered in the context of claims being paid out for 17, or perhaps as long as 21, years. Professor Klonoff acknowledges this fact. Klonoff Decl. ¶ 19. Yet he fails to consider the present value of the Proposed Settlement, which is not, as he states, \$6.25–\$7.25 billion but more in the range of \$4 billion. On this fact alone, class counsel's fee request is far in excess of ten percent of the settlement funds.

Second, Professor Klonoff does not take into account that nearly all presently injured class members—Subclass 1—are represented by counsel. As the Proposed Settlement itself provides and Class Counsel has stated, individual contracts between class members and their counsel are not altered by the Proposed Class Settlement. Thus, other than perhaps a handful of pro se plaintiffs, ***all*** class members will have their award reduced by their individual retainer fee—typically thirty-three to forty percent—as well as expenses incurred in litigating the case and obtaining records necessary to submit a settlement claim.[8] To put this in dollars, if a class member is a residential user and was diagnosed with an aggressive NHL prior to age 60, her gross payment would be $40,000 (the highest residential class settlement payment). Assuming the fee agreement with her attorney is 40% and expenses incurred in her case are only $2,000, her net payment amount would be $22,000. And this is only if there are no medical liens, a near impossibility for a person diagnosed with an aggressive NHL. In reality, the cancer victim would recover even less.

Third, Professor Klonoff does not take into account that Class Counsel protected Monsanto from any liability for medical liens, releasing Monsanto of any lien responsibility and placing the onus on class members to resolve their medical liens. What's more, as explained above, Class Counsel still, to this day (five months after the announcement of the Proposed Settlement and allegedly two years of negotiations leading to it), has not resolved a negotiated cap on medical liens. That could result in a class member's entire payment being taken in medical lien reimbursement. Treatment for NHL is typically in the hundreds of thousands of dollars, and sometimes even higher. Even assuming that class counsel eventually finalizes some lien resolution, and even assuming that liens are capped at one-third of the settlement amount, a class member's payment would be reduced still further by one-third of the gross payment for her medical lien.

[8] Professor Klonoff may also have overlooked that the Proposed Settlement Agreement contemplates that future claimants could be subject to attorney's fees of up to 22% of their recovery. Section 6.16(c). Additionally, the notice of settlement itself states: "You are responsible for paying your own lawyer's fees."

Using the example above, the class member in this scenario would have to pay a medical lien of $13,332, leaving the class member with a total class payment of $8,668.[9]

Fourth, as to the overall settlement funds, Professor Klonoff gives short shrift to the credits given to Monsanto for opt-outs. Klonoff Decl., ¶ 140, n.72. For currently injured people, there will be a one-to-one credit as they likely already filed their lawsuit. He also fails to address that the "credit" to Monsanto is multiplied exponentially for each opt-out who undergoes litigation discovery, and even more once an opt-out is 90 days from the start of trial. Proposed Settlement Agreement, § 5.1.

Fifth, Professor Klonoff's reliance on a per case average provided by Class Counsel, without more, does not answer serious questions about what class members will actually receive in this settlement. *See* Declaration of Co-Lead Class Counsel Christopher A. Seeger in Support of the Joint Motion for Entry of the Final Approval Order and Suggestions in Support, dated July 15, 2026 ("Seeger Decl."), ¶ 22. By Monsanto's own statements, the vast majority of plaintiffs in Roundup litigation are residential users. Bayer Global, "Managing the Roundup Litigation," https://www.bayer.com/en/managing-the-roundup-litigation (last accessed Jul. 28, 2026). Residential users are eligible for payments at base levels ranging from $10,000 to $40,000, and occupational users for payments at levels ranging from $10,000 to $165,000. The Proposed Settlement therefore places into a black box—not determined until after class members have decided whether or not to participate—the amounts that class members would actually receive. This is so both for residential users, given the great disparity between their base payment range and the stated $50,000 per-case average, and for occupational users, who cannot be certain whether

[9] A commercial user's recovery would look like this, assuming it was also at the highest level for that category ($165,000): attorneys fee of $66,000, same assumption of $2,000 in litigation costs, and $54,995 deduction for medical liens, leaving a payment to the plaintiff of $42,005.

they will qualify for an occupational designation given the program's stringent requirements for proving that status. The values on offer are, in any event, far below settlement values that undersigned counsel, and other counsel about which counsel is aware, have received in Roundup settlements. And while it may be convenient to use the Feinberg numbers (*see* Seeger Decl., ¶ 22), it is also rich for the settling parties to do so as they continuously distance themselves from the MDL as outlier cases.[10]

There are other flaws in Professor Klonoff's opinions concerning the fairness and reasonableness of the Proposed Settlement terms that make his declaration unreliable. For example, throughout his declaration he tries to shift the burden to objectors to produce a "better" settlement. But that is not objectors' role: Producing a responsible and legally sound class settlement was the duty of Class Counsel, not objectors. Professor Klonoff cannot shift that burden away from Class Counsel.[11]

B. The Final Approval Submissions Confirm that Class Notice Was Inadequate.

Monsanto, Class Counsel, Klonoff, and declarant Shannon Wheatman, an executive with an advertising and notification consulting firm, tout the efforts made to notify the class of the

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[10] It is also misleading for Professor Klonoff and Class Counsel to cite to the Feinberg settlement program as justification for the Proposed Class Settlement values. Klonoff Decl., ¶ 25. Klonoff states that "[t]he average individual settlement [in the Feinberg program] was $24,481, which is less than half of the overall average under the current settlement across all tiers, of no less than $50,000." Klonoff Decl. at ¶ 25. The Feinberg settlement program numbers are very close to the value of this settlement for residential users—over 90 percent of the plaintiffs. But there is more to show the fallacy of this statement: the vast majority of the cases participating in the Feinberg program are settled shortly after filing and with no litigation workup whatsoever. That should not inform fair compensation in this settlement, when Monsanto itself acknowledges that these filings are outliers and—as demonstrated by the Payment Credit scheme for opt outs—that cases worked up past the filing stage accrue significantly more settlement value.

[11] Class Counsel, for their part, try to shield their settlement terms from scrutiny, claiming that objectors' showing "that this or that element of the Settlement could have been designed differently is beside the point," and that "If the Court agrees that the Settlement meets the relevant legal standards, that is the end of the inquiry." Final Approval Mot. at 22–23.

Proposed Settlement. Objectors have detailed previously why the class notice is constitutionally deficient, interferes with attorney-client relationships, and contains numerous material misrepresentations, and the Final Approval Motion fails to rebut these showings. Objectors' Opening Brief at 23–35. These flaws mean that, however the distribution of class notice was implemented, the communications that potential class members received were legally insufficient to bind them to the Proposed Settlement now before this Court.

There is also good reason to question Class Counsel and Monsanto's efforts in disseminating the class notice, before even looking to what the notice said. Wheatman declares that efforts were made to reach a variety of audiences and media channels, and that "direct notice and third-party notice" were provided to agricultural customers and others. Wheatman Decl., ¶ 8. Several farmers, who are not themselves Objectors, have submitted declarations herewith explaining that they purchase and use Roundup on their farms, do not currently have NHL, and did not know about the Proposed Class Settlement, either through direct notice or through social medial posts or television before the opt-out deadline. *See* **Exhibits 1–4**.[12] They are certainly not the only ones.

Wheatman also declares that, in her opinion, the class notices sufficiently notified people who have not yet developed cancer of their legal rights. Wheatman Decl., ¶¶ 78–84. The constitutional sufficiency of notice to futures claimants is a legal question far outside Wheatman's expertise, and amici who have considered the issue disagree with Wheatman's conclusion. *See, e.g.*, Brief of the American Association for Justice and Public Justice as Amici Curiae in Support

[12] See attached Declarations of four farmers who purchase and use Roundup on their farms, who do not currently have NHL, and did not know about the Proposed Class Settlement, either through direct notice of through social medial posts or television before the opt-out deadline. Affidavit of Trace Grigg (**Exhibit 1**); Affidavit of Brandon Weber (**Exhibit 2**); Affidavit of Colton Barbo (**Exhibit 3**); Affidavit of Pedro Sorola (**Exhibit 4**).

of Neither Party (July 15, 2026); Amicus Brief of Civil Procedure, Aggregate Litigation, Class Action, Legal Ethics, and Consumer Law Scholars in Opposition to Final Approval of Proposed Class Settlement at 18–21 (July 15, 2026).[13, 14] Similarly, Professor Klonoff does not provide a credible argument to support his opinion that the Proposed Settlement complies with *Amchem*, which it does not. There is simply no legal justification for trapping people who will be diagnosed with NHL in the future into a settlement when they currently do not have cancer.

The only possible benefit of the Subclass 2 settlement is protection for Monsanto[15]—there is ***no*** consideration given to future class members and, to the contrary, it deprives them of their due process rights to sue Monsanto for cancer, without restrictions, as the likelihood of people opting out who are currently healthy is virtually nil. Class Counsel should be required to publicly disclose how many opt-outs it received from people who are currently cancer-free. Comparing that number to the fact that Roundup is the most used herbicide in the country will likely prove that the

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[13] It also bears mention that Wheatman was among the experts behind the class notice in the 2021 proposed settlement criticized by the MDL court: "Counsel's response at the hearing was simply that they hired experts and trusted them to craft an appropriate notice. That is not an adequate response." *In re Roundup Prods. Liab. Litig.*, 541 F. Supp. 3d 1004, 1008–09 (N.D. Cal. 2021). Here, too, despite Wheatman's and the Proposed Settlement proponents' efforts to distinguish the 2021 settlement, Wheatman Decl. ¶¶ 83–84, this was not a function that could be delegated.

[14] For the Court's convenience and to ensure a comprehensive record, attached as **Exhibits 5–8** are four amicus curiae briefs submitted in support of enjoining this proposed class action settlement, filed before Judge Chhabria on April 16, 2026 in the Roundup multi-district litigation. Although filed in the MDL for a different purpose, these thorough, thoughtful, and impartial briefs may assist Your Honor with his analysis.

[15] Professor Klonoff admits as much. He states throughout that Monsanto would not settle without global peace, including futures. *See, e.g.*, Klonoff Decl., ¶ 128. That argument falls flat. Future plaintiffs should not be sublimated to the desires of a company that has caused users of Roundup to get cancer and will continue to do so. It is absurd not to take into account that Monsanto still sells Roundup with glyphosate in the agricultural market – by far its biggest money maker. If this class is certified, Monsanto will continue to cause widespread disease among farmers and farm workers, will continue to make billions in sales of Roundup and Roundup Ready Seeds, and victims of Monsanto's Roundup who get sick in the future will have the courthouse doors shut to them, never knowing that there was a class in 2026 that extinguished their due process rights.

class notice in this case—touted by Wheatman, Klonoff and Class Counsel as unprecedented—fell far short of adequately notifying the people who it needed to reach.

C. Class Counsel Fail to Address the Ethically Questionable Attorneys' Fee Provisions Enticing Participation in the Proposed Settlement.

The Final Approval Motion attempts to silo off attorneys' fees as a nonfactor in the Proposed Settlement scheme, purportedly because the settlement leaves the "amount of the attorneys' fees award to the Court's discretion and does not provide for a specific fee or percentage." Mot. at 136. Professor Klonoff likewise downplays their clear importance, and states that his opinion "do[es] not address attorneys' fee issues." Klonoff Decl. ¶ 35. But the merits of the settlement, and participation in it, are intertwined with its ethically questionable and inequitable attorney fee provisions, which are described at length in Objectors' previous filings. *See* Objectors' Opening Brief at 59–70.

In reality, a clearer view of the facts freed from these constraints would confirm that the financial benefits of this class settlement inure to class counsel and non-class counsel attorneys enticed by the prospect of sharing in $675 million in class fees. Professor Klonoff identifies those attorneys, Klonoff Decl. ¶ 114, as did Seeger in an earlier filing in the Roundup MDL, **Exhibit 9** ("Seeger MDL Decl."). Klonoff expresses no concerns about the perverse incentives dangled to attorneys to convince all but a small handful of their clients to participate in the settlement so that they do not lose out on the chance to share in this outsized trove of class fees.[16]

The Seeger filing identifies the approximate total number of cases each attorney has (including those who originally opposed the settlement) and also including his own firm. The range of those client numbers is wide, with a higher range greater than ten thousand clients. Seeger MDL

[16] Under the revised Proposed Settlement, law firms can opt out no more than 25 Opt-Outs or 0.75% of their firm's total number of Initial Claimants, whichever is greater. Section 15.4.

Decl., Ex. 9, ¶ 6. The revised deal now allows for no more than the greater of 25 opt-outs, or 0.75% of a firm's total number of initial claimants, in order for that firm to be eligible to share in the class fees. By way of example, assume a firm has about 5,000 clients. That firm would have to convince 4,962 of its clients not to opt out. And using an estimated breakdown of 90 percent residential clients and 10 percent occupational clients, this firm would earn fees on its contingency contracts (assuming 40% contingency fee) of about $61 million, ***in addition to*** their share of the class counsel fee. Class Counsel and each of the other law firms that Professor Klonoff identifies as also publicly endorsing the settlement, Klonoff Decl., ¶ 114, as well as other firms who accepted Class Counsel fee sharing deal, will thus double-dip from the settlement funds—but only in exchange for steering their clients to the settlement. *See also* Seeger Decl., ¶ 54. The endorsements of these firms thus prove nothing about the fairness and reasonableness, or lawfulness, of this settlement.

In contrast to these handsome fees, a residential user with NHL in the highest payment category would receive, assuming a one-third cap on medical liens, less than $9,000. This massive disparity – to say nothing about the highly deferred payment timing for class members, and the accelerated payment for Class Counsel and other participating attorneys – should give the Court pause before approving the settlement in its current form.

III. <u>The Unduly Onerous Opt-Out Process and the Absence of Meaningful Recourse for Opt-Out Denials Are an Affront to Class Members' Inalienable Rights.</u>

The settlement proponents' defense of the opt-out regime rests on two premises: (1) that the requirements are similar to those approved in other class settlements; and (2) that class members who make good-faith errors will be protected by the discretion of the Settlement Administrator, Class Counsel, and Monsanto. Neither premise withstands scrutiny. The Proposed Settlement proponents' efforts to string together opt-out requirements from other highly distinct settlements do not establish fairness in this one. A process that depends entirely on the goodwill of parties with a direct financial stake in minimizing opt-outs is not a substitute for Class Members' fundamental legal rights.[17]

Notably absent from the Proposed Settlement proponents' defense is any justification for these myriad requirements. By making opting out as difficult as possible and foreclosing the right to cure for the vast majority of opt-outs, the requirements seem designed principally to serve the settling parties' own ends: to allow Monsanto and Class Counsel to calculate the payment credits Monsanto receives for each opt-out. *See*, *e.g.*, Klonoff Decl. ¶ 140 & n.72. In other words, the Proposed Settlement's enormously burdensome opt-out procedures sacrifice the rights of the very people who want no part of the settlement, solely for the administrative convenience and financial bookkeeping of the settling parties. That is backwards. The parties who negotiated this settlement, and who stand to benefit from it (enormously, at that), should shoulder the burden of verifying opt-outs—not the cancer victims who seek to preserve their own claims and want nothing to do with this insulting deal.

A. The Opt-Out Requirements Are Excessively Burdensome.

Monsanto and Class Counsel's attempt to piece together opt-out requirements from other readily distinguishable settlements is deeply flawed for various reasons. That other class settlements have imposed detailed opt-out requirements does not mean those formalities were fair, particularly when strewn together from a host of different settlements, nor does it mean they are appropriately calibrated to this Class, which—unlike any of the referenced settlements—traps represented and unrepresented past, present, and future cancer victims with millions of dollars in

[17] For example, to illustrate the absence of goodwill, we learned today that counsel for Monsanto has notified at least one firm with opt-outs requesting depositions of their opt-out clients, even though those cases have been pending for years without such a request and also while Monsanto seeks stays in cases set for trial. Such strongarm tactics have defined this settlement's procedures and should not be countenanced.

damages. Importing a cacophony of duplicative requirements, without any tailored showing that this Class's Members can realistically satisfy it given the circumstances here (they cannot), substitutes discordant precedent for analysis. The fairness of the opt-out process must be measured against what can reasonably be expected of these Class Members themselves, *i.e.*, generally grievously ill laypeople who never received direct notice and instructions, who were never even provided with an acceptable opt-out form to use, and whose ability to navigate these requirements cannot be presumed, even if some were fortunate enough to retain counsel who tried to help them.

This Class includes individuals who are elderly, seriously ill, actively undergoing cancer treatment, hospitalized, and recently bereaved family members handling a decedent's affairs. (Indeed, all the undersigned counsel's clients with purportedly deficient opt-outs fall into at least one of these categories.) The majority of Subclass 2 Members are likely unrepresented and completely unaware of these proceedings to this day. Requiring these individuals to provide detailed personal identifying information, track down exact medical information, proffer legal information about their lawsuit and tolling agreements (which a lay person would not understand), coordinate a "wet ink" signature, provide a copy of a state-issued identification and/or a deceased loved one's identification, obtain a power of attorney, and assemble a technically compliant submission—within a short, fixed, and unforgiving window of time—imposes a burden that has nothing to do with verifying legitimacy and everything to do with attrition.[18] Every extra

[18] Of course, to suggest that the requisite detailed personal identifying information ***and*** a government-issued identification ***and*** a wet-ink signature (among other requirements) are all necessary to verify that a Class Member exists would be laughable if the implications here were not as grave as they are. Any competent Settlement Administrator could verify an individual's existence with far less information, and opt-outs should not be forced to shoulder the burden of Monsanto and Class Counsel's convoluted payment credit scheme. Monsanto and Class Counsel's egregious attempts to minimize the number of opt-outs is further belied by the reality that the Proposed Settlement does not contain the same burdensome requirements for participants, who

document, every requisite statement, every signature requirement that cannot be satisfied remotely, and every ambiguous instruction meaningfully deters Class Members from exercising a right the Proposed Settlement purports to guarantee them. Educating all our clients and obtaining the requisite opt-out materials from our clients was by no means "a relatively minor inconvenience" (Klonoff Decl. ¶ 141), but rather a Herculean effort that usurped many firms' resources (ours included); as such, complying with the Proposed Settlement's opt-out requirements is certainly not "minor" for a hospital-bound, cancer-stricken Class Member with no counsel.

Furthermore, Monsanto and Class Counsel's reliance on the Settlement Administrator's supposed leniency and ability to cure their opt-outs is likewise dubious. The Klonoff Declaration notes that the Administrator sometimes accepted a diagnosis year in place of an exact date, and sometimes issued "courtesy" deficiency notices "where practicable." Klonoff Decl. ¶ 145. But ad hoc leniency is not a substitute for a fair rule or due process. Rather than building in a guaranteed right to correct any deficiencies into the Proposed Settlement, that right was discretionary and inconsistently applied. In fact, ***only approximately five percent (5%)*** of the undersigned counsel's purportedly deficient opt-outs were graciously provided the opportunity to correct their opt-out paperwork. A Class Member who did not happen to receive a courtesy notice had no safety net, despite millions of dollars in damages at stake in each Class Member's case. Fairness cannot depend on whether an individual class member got lucky, nor can it be denied because a Class Member submitted their opt-out toward the end of the opt-out period.

B. The Process for Challenging Opt-Out Invalidations Offers Only Illusory Recourse.

Even under the revised opt-out challenge procedure requiring notice and an opportunity to

may submit a claim form with an electronic signature. *See* Section 6.3(a)(xi) of the Proposed Settlement Agreement.

respond, a challenged Class Member must recognize a legal notice, understand what is being asked of them, and prepare a substantive response—all within a matter of days, possibly without a lawyer, and often while managing an active cancer diagnosis or the immediate aftermath of losing a family member. A right to respond that assumes sophistication, availability, technological abilities, and stamina the Class Member may not have is not meaningful recourse. And even a Class Member who timely responds to a technical challenge is afforded no right to cure the very deficiency on which the challenge rests; the procedure permits them only to contend that they already satisfied the Proposed Settlement's technical requirements by the deadline, not to fix any shortfall the settling parties have identified.

Nothing in the Proposed Settlement or the declaration articulates a concrete standard for what separates a curable, good-faith defect from a "patently deficient" one. The only assurance offered is that the settlement's proponents—who will benefit immensely from a successful settlement—can each be trusted to draw that line correctly. Trust is not a procedural safeguard, and a class wide settlement should not ask absent Class Members to forfeit a legal right on the strength of it. Worse still, the Court is given no standard to apply in adjudicating these challenges beyond confirming whether a Class Member met every technical requirement of the Proposed Settlement by the June 4 deadline. The recent amendment purporting to add a layer of judicial review therefore supplies only the appearance of due process. With no right to cure, and no governing standard other than compliance with the Proposed Settlement's technicalities, that review is purely ministerial and cannot protect the due process rights of Class Members whose claims are worth millions of dollars.

The opt-out requirements are structured in a way that it is disproportionately difficult for the population most likely to need to invoke them, and the mechanism for correcting or justifying good-faith errors depends on the discretion of parties who benefit financially when opt-outs fail. A settlement that conditions a Class Member's ability to preserve their own day in court on satisfying demanding, inconsistently-enforced formalities—reviewed by interested parties, with no right to cure and no independent right of appeal—does not provide the meaningful opt-out right that due process and Rule 52.08 require.

IV. Class Counsel's Baseless Attacks on Objectors' Counsel Lack Merit.

Objectors' counsel do not apologize for vocally raising concerns about the irregular and unfair terms of the Proposed Settlement, which are shared by numerous other objectors as well as academic observers and amici. The proponents of the Proposed Settlement admit that they have already revised the settlement after these concerns were raised—they claim that this was to "clarify the Parties' intent," Seeger Decl. ¶ 83. Though these changes have been insufficient to cure the deeper flaws in the Proposed Settlement, this only confirms that scrutiny of a major settlement by people other than its proponents can yield positive change, which is one of the reasons the Rules of Civil Procedure enshrine an important role for objectors.

Despite this, Mr. Seeger's declaration includes highly inappropriate and false invective directed against Objectors' counsel, the Weitz & Luxenberg firm, misrepresenting the actions our firm has taken to protect and represent our clients, as well as our motivation for our actions. Seeger Decl., ¶¶ 76–79, 82–85. Counsel will not dignify this invective with a detailed response, but it is simply untrue. Among other things, Mr. Seeger claims that counsel's "recommendations to their clients to opt out of the Settlement were premised on blatant misrepresentation of the Settlement's terms." *Id.* ¶ 85. Putting aside the fact that Seeger does not participate in our discussion with our clients, and the false and defamatory nature of that statement, counsel has conducted 18 webinars with our clients and has worked tirelessly to provide detailed, individualized legal advice to the countless people who have called and written to express confusion and concern about its terms. These communications are privileged beyond these general points but hopefully put to rest Seeger's baseless allegations; his claims deserve no further response other than to remind the court that even the expert class counsel hired to opine about the Proposed Settlement begins the summary of his opinions with the phrase "[t]his is not a perfect settlement . . . ." Klonoff Decl., ¶ 31. Indeed, it is not.

In sum, Class Counsel have acted and continue to act as Monsanto's pawn in pushing forward this ill-advised settlement. As a prime example, Mr. Seeger's declaration toes the Monsanto party line regarding the impact of the *Durnell* decision in ways that are defeatist, legally incorrect, and against class members' and opt-out plaintiffs' interests, and it is no coincidence that he has not actively litigated a single Roundup case. Seeger Decl., ¶ 48. As ongoing litigation will show, there are numerous causes of action remaining against Monsanto (and other defendants) outside of the narrow cause of action *Durnell* preempted that are not, in Class Counsel's words, "substantially harder to prove" and which "may also reduce the size of any verdicts." Seeger Decl., ¶ 48. History will prove Class Counsel and their supporters wrong.

CONCLUSION

The Proposed Settlement should be rejected in its current form. At a minimum, the Court should require profound revisions to satisfy the requirements of Missouri's class action procedures, respect the Due Process rights of class members, and protect settlement recoveries from being impaired or extinguished by medical liens.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was electronically filed and served upon all counsel of record through the Missouri Electronic Filing System, on this 29th day of July 2026.

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