

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

MONSANTO COMPANY, a corporation; (See Attachment)

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

Donnetta Stephens

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): San Francisco Superior Court
Civic Center Courthouse
400 McAllister Street, San Francisco, CA 94102

CASE NUMBER (Número del Caso):
CGC-20-585764

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Karen Barth Menzies, GIBBS LAW GROUP LLP, 505 14th Street, Suite 1110, Oakland, CA 94612 Tel: (510) 350-9700

DATE: **AUG 04 2020** Clerk of the Court Clerk, by (Fecha) **ANGELICA SUNGA** (Secretario) , Deputy (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)



NOTICE TO THE PERSON SERVED: You are served

- 1. as an individual defendant.
- 2. as the person sued under the fictitious name of (specify):
- 3. on behalf of (specify):
 - under: CCP 416.10 (corporation) CCP 416.60 (minor)
 - CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 - CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 - other (specify):
- 4. by personal delivery on (date)

SHORT TITLE: Donnetta Stephens v. MONSANTO CO., et al.	CASE NUMBER:
--	---------------------

INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

Plaintiff
 Defendant
 Cross-Complainant
 Cross-Defendant

MONSANTO COMPANY, a corporation; and WILBUR-ELLIS NUTRITION, LLC (formerly WILBUR-ELLIS FEED, LLC), a limited liability company; CROWN ACE HARDWARE; and DOES 1 through 100 inclusive,

1 Karen Barth Menzies (CA SBN 180234)
2 GIBBS LAW GROUP LLP
3 505 14th Street, Suite 1110
4 Oakland, CA 94612
5 Tel: (510) 350-9700
6 Fax: (510) 350-9701
7 kbm@classlawgroup.com

8 Fletcher V. Trammell, Esq. (*pro hac vice* to be submitted)
9 Melissa Binstock Ephron, Esq. (*pro hac vice* to be submitted)
10 TRAMMELL, PC
11 3262 Westheimer Rd., Ste. 423
12 Houston, TX 77098
13 Tel: (800) 405-1740
14 Fax: (800) 532-0992
15 fletch@trammellpc.com
16 melissa@trammellpc.com

17 Alexander G. Dwyer (*pro hac vice* to be submitted)
18 Andrew F. Kirkendall (*pro hac vice* to be submitted)
19 Erin M. Wood (*pro hac vice* to be submitted)
20 KIRKENDALL DWYER LLP
21 4343 Sigma Rd, Suite 200
22 Dallas, TX 75244
23 Tel: 214-271-4027
24 Fax: 214-253-0629
25 ad@kirkendalldwyer.com
26 ak@kirkendalldwyer.com
27 ewood@kirkendalldwyer.com
28 *Attorneys for Plaintiff*

F I L E D
Superior Court of California
County of San Francisco

AUG 04 2020

CLERK OF THE COURT

BY: _____ Deputy Clerk

ANGELICA SUNGA

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO
(UNLIMITED JURISDICTION)**

DONNETTA STEPHENS,

Plaintiff,

v.

MONSANTO COMPANY, a corporation; and
WILBUR-ELLIS NUTRITION, LLC (formerly
WILBUR-ELLIS FEED, LLC), a limited liability
company; CROWN ACE HARDWARE; and
DOES 1 through 100 inclusive,

Defendants.

Case No.

CGC-20-585764

**ORIGINAL COMPLAINT FOR
DAMAGES AND DEMAND FOR JURY
TRIAL**

1. **Strict Liability – Design Defect**
2. **Strict Liability – Failure to Warn**
3. **Negligence**
4. **Fraud**
5. **Breach of Express Warranties**
6. **Breach of Implied Warranties**
7. **Exemplary Damages**

JURY TRIAL DEMANDED

1 Plaintiff Donnetta Stephens, by and through her attorneys, alleges upon information and
2 belief:

3 **STATEMENT OF THE CASE**

4 1. In 1970, Defendant Monsanto Company discovered the herbicidal properties of
5 glyphosate and began marketing it in products in 1974 under the brand name Roundup®.
6 Roundup® is a non-selective herbicide used to kill weeds that commonly compete with the
7 growing of crops. By 2001, glyphosate had become the most-used active ingredient in American
8 agriculture with 85–90 millions of pounds used annually. That number grew to 185 million pounds
9 by 2007. As of 2013, glyphosate was the world’s most widely used herbicide.
10

11 2. Monsanto is a multinational agricultural biotechnology corporation based in St.
12 Louis, Missouri. It is the world’s leading producer of glyphosate. As of 2009, Monsanto was the
13 world’s leading producer of seeds, accounting for 27% of the world seed market. The majority of
14 these seeds are of the Roundup Ready® brand. The stated advantage of Roundup Ready® crops is
15 that they substantially improve a farmer’s ability to control weeds, since glyphosate can be
16 sprayed in the fields during the growing season without harming their crops. In 2010, an estimated
17 70% of corn and cotton, and 90% of soybean fields in the United States were Roundup Ready®.
18

19 3. Monsanto’s glyphosate products are registered in 130 countries and approved for
20 use on over 100 different crops. They are ubiquitous in the environment. Numerous studies
21 confirm that glyphosate is found in rivers, streams, and groundwater in agricultural areas where
22 Roundup® is used. It has been found in food, in the urine of agricultural workers, and even in the
23 urine of urban dwellers who are not in direct contact with glyphosate.

24 4. On March 20, 2015, the International Agency for Research on Cancer (“IARC”), an
25 agency of the World Health Organization (“WHO”), issued an evaluation of several herbicides,
26 including glyphosate. That evaluation was based, in part, on studies of exposures to glyphosate in
27 several countries around the world, and it traces the health implications from exposure to
28 glyphosate since 2001.

1 5. On July 29, 2015, the IARC issued the formal monograph relating to glyphosate. In
2 that monograph, the IARC Working Group provides a thorough review of the numerous studies
3 and data relating to glyphosate exposure in humans.

4 6. The IARC Working Group classified glyphosate as a Group 2A herbicide, which
5 means that it is probably carcinogenic to humans. The IARC Working Group concluded that the
6 cancers most associated with glyphosate exposure are non-Hodgkin lymphoma and other
7 haematopoietic cancers, including lymphocytic lymphoma/chronic lymphocytic leukemia, B-cell
8 lymphoma, and multiple myeloma.

9 7. The IARC evaluation is significant. It confirms what has been believed for years:
10 that glyphosate is toxic to humans. Nevertheless, Monsanto, since it began selling Roundup®, has
11 represented it as safe to humans and the environment. Indeed, Monsanto has repeatedly
12 proclaimed and continues to proclaim to the world, and particularly to United States consumers,
13 that glyphosate-based herbicides, including Roundup®, create no unreasonable risks to human
14 health or to the environment.

15 8. Upon information and belief, Wilbur-Ellis Company, LLC and Wilbur-Ellis
16 Nutrition, LLC were responsible for marketing Roundup® and related Monsanto products during
17 the time period in question.

18 9. Upon information and belief, Crown Ace Hardware was responsible for marketing
19 and selling Roundup® to Plaintiff during the time period in question.

20 **JURISDICTION AND VENUE**

21 10. The California Superior Court has jurisdiction over this action pursuant to
22 California Constitution Article VI, Section 10, which grants the Superior Court “original
23 jurisdiction in all causes except those given by statute to other trial courts.” The Statutes under
24 which this action is brought do not specify any other basis for jurisdiction.
25

26 11. The California Superior Court has jurisdiction over the Defendants because, based
27 on information and belief, each is a California resident, a corporation, and/or entity organized
28

1 under the laws of the State of California, a foreign corporation or association authorized to do
2 business in California and registered with the California Secretary of State or that has sufficient
3 minimum contacts in California, or principle places of business in California or otherwise
4 intentionally avails itself of the California market so as to render the exercise of jurisdiction over it
5 by the California courts consistent with traditional notions of fair play and substantial justice.

6 12. Venue is proper in this Court pursuant to California Code of Civil Procedure
7 Section 395(a) because some of the Defendants – Wilbur-Ellis Company, LLC and Wilbur-Ellis
8 Feed, LLC – are residents of San Francisco County.

9 13. Furthermore, the Defendants have purposefully availed themselves of the benefits
10 and the protections of the laws within the State of California. Monsanto has had sufficient contact
11 such that the exercise of jurisdiction would be consistent with the traditional notions of fair play
12 and substantial justice.

13 14. Plaintiff seeks relief that is within the jurisdictional limits of this Court.

14 **PARTIES**

15 15. Plaintiff Donnetta Stephens, is a citizen of the State of California. Plaintiff was
16 born on January 2, 1950, and resides in the City of Yucaipa, County of San Bernardino. Plaintiff
17 submits to the jurisdiction of this court and alleges venue in this Court is proper.

18 19 16. Plaintiff was exposed to Roundup® in San Bernardino County, California, when she
20 applied Roundup® to her yard on a bi-weekly basis from 2000 until 2017 during the months of
21 April through September.

22 17. On December 15, 2017, Plaintiff was diagnosed with non-Hodgkin lymphoma
23 (“NHL”) in Redlands, California, at Beaver Advantage Health Center, and suffered the effects
24 attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective
25 nature of Roundup® and Defendants’ wrongful and negligent conduct in the research,
26 development, testing, manufacture, production, promotion, distribution, marketing, and sale of
27 Roundup®.
28

1 18. Plaintiff is informed and believe and based thereon allege that as a direct and
2 proximate result of Plaintiff's exposure to Roundup® and/or other Monsanto and/or Monsanto
3 glyphosate-containing products ("Roundup"), supplied, marketed, and/or distributed by
4 Defendants herein, Plaintiff suffered significant harm, conscious pain and suffering, physical
5 injury and bodily impairment including, but not limited to non-Hodgkin lymphoma and other
6 cancers, other permanent physical deficits, permanent bodily impairment and other injury
7 sequelae. Plaintiff's injuries required medical intervention to address the adverse physical effects
8 and damage caused by Plaintiff's exposure to Roundup® and/or other Monsanto glyphosate-
9 containing products ("Roundup").
10

11 19. As a direct and proximate result of the wrongful conduct, acts, omissions,
12 fraudulent concealments, fraudulent misrepresentations, and fraudulent business practices by
13 Defendants and DOES 1 through 100, inclusive, Plaintiff used and/or was exposed to Roundup®
14 and was diagnosed with serious health injuries including non-Hodgkin lymphoma.

15 20. As a further direct and proximate result of defects in Roundup® and the wrongful
16 conduct, acts, omissions, and fraudulent misrepresentations of Defendants, Plaintiff suffered
17 severe mental and physical pain and has and will sustain permanent injuries and emotional
18 distress, along with economic loss due to medical expenses and living-related expenses as a result
19 of lifestyle changes.

20 21. As a further direct and proximate result of defects in Roundup® and the wrongful
21 conduct, acts, omissions, and fraudulent misrepresentations of Defendants, Plaintiff required
22 medical intervention in efforts to maintain and/or save Plaintiff.
23

24 22. Plaintiff is an individual who suffered damages as a result of injuries resulting from
25 Plaintiff's use and/or exposure to Roundup® and is authorized to bring an action for the causes of
26 actions alleged herein including, but not limited to, injuries and damages sustained by Plaintiff
27 resulting from Plaintiff's use of and exposure to Roundup®. Said injuries and damages sustained
28 by Plaintiff were caused or substantially contributed to by the wrongful conduct of Defendants and

1 DOES 1 through 100, inclusive.

2 23. The product warnings for Roundup® in effect during the time period Plaintiff used
3 and/or was exposed to Roundup® were vague, incomplete, or otherwise inadequate, both
4 substantively and graphically, to alert consumers to the severe health risks associated with
5 Roundup® use and/or exposure.

6 24. The Defendants and DOES 1 through 100, and each of them, inclusive, did not
7 provide adequate warnings to consumers including Plaintiff and the general public about the
8 increased risk of the serious adverse events described herein.

9 25. Had Plaintiff been adequately warned by the Defendants and DOES 1 through 100,
10 and each of them, inclusive, of the potential life-threatening side effects of Roundup®, Plaintiff
11 would not have purchased, used, or been exposed to Roundup®.

12 26. By reason of the foregoing, Plaintiff developed serious and dangerous side effects
13 including non-Hodgkin lymphoma, related injury sequelae, physical pain and suffering, mental
14 anguish, and loss of enjoyment of life. By reason of the foregoing, Plaintiff suffered economic
15 losses and special damages including, but not limited to, loss of earning and medical expenses.
16 Plaintiff's general and special damages exceed the jurisdictional limits of this Court.

17 27. Plaintiff has reviewed potential legal claims and causes of action against the
18 Defendants and has intentionally chosen only to pursue claims based on state law. Any reference
19 to any federal agency, regulation or rule is stated solely as background information, and Plaintiff is
20 not making any claims which raise federal questions. Thus, California state jurisdiction and venue
21 is proper.

22 **Defendants**

23 28. Defendant Monsanto Company ("Monsanto") is a Delaware corporation with its
24 headquarters in St. Louis, Missouri, and multiple principal places of business throughout the
25 world, including in St. Louis, Missouri, Oxnard, California, Woodland, California, and, at all
26 relevant times to this complaint, San Ramon, California. At all times relevant to this complaint,
27 Monsanto was the entity that discovered the herbicidal properties of glyphosate and manufactured
28 Roundup®. Monsanto has regularly transacted and conducted business within the State of

1 California and has derived substantial revenue from goods and products, including Roundup®,
2 used in the State of California and employs sales representatives in the State of California.
3 Specifically, Monsanto operated a residential products division known as the Solaris Group of
4 Monsanto Company (hereinafter “Solaris Group”), headquartered in San Ramon, California.
5 Moreover, upon information and belief, Solaris Group manufactured, registered, distributed,
6 marketed, advertised, and sold Roundup® products to California consumers. At all relevant times,
7 Monsanto has conducted testing, research, and analyses on its Roundup® and other glyphosate-
8 based formulations within California and manufactured said products in California, utilizing
9 principal laboratories and manufacturing sites throughout the State of California in locations such
10 as San Ramon, Oxnard, and Woodland. Monsanto expected or should have expected its acts to
11 have consequences within the State of California because it derived substantial revenue from
12 interstate commerce and invoked the benefits and protection of the State of California’s laws.

13 29. Defendant Wilbur-Ellis Company LLC is a California limited liability company
14 with its headquarters and principal place of business in San Francisco, California. At all times
15 relevant to this complaint, Wilbur-Ellis Company, LLC sold and distributed Monsanto products,
16 including Roundup®, within the State of California.

17 30. Defendant Wilbur-Ellis Nutrition LLC (with Wilbur-Ellis Company LLC,
18 hereinafter “Wilbur-Ellis”) is a California limited liability company with its headquarters and
19 principal place of business in San Francisco, California. At all times relevant to this complaint,
20 Wilbur-Ellis Nutrition LLC sold and distributed Monsanto products, including Roundup®, within
21 the State of California. Wilbur-Ellis is a main distributor of Roundup®, and, upon information and
22 belief, distributed Roundup® used by Plaintiff and to which Plaintiff was exposed.
23

24 31. Defendant Crown Ace Hardware is a California corporation with its principal place
25 of business in in Yucaipa, California. At relevant times to this complaint, Crown Ace Hardware
26 sold Roundup® to Plaintiff from its storefront in Yucaipa, California, and this constituted some of
27 the Roundup® to which Plaintiff was exposed.
28

1 32. Plaintiff is informed and believes, and based thereon alleges, that in committing the
2 acts alleged herein, each and every managing agent, agent, representative, and/or employee of the
3 Defendants was working within the course and scope of said agency, representation and/or
4 employment with the knowledge, consent, ratification, and authorization of the Defendants and
5 their directors, officers, and/or managing agents.

6 33. At all relevant times alleged herein, one or more of the corporate Defendants was,
7 and now is, a corporation with its principal place of business in the State of California and,
8 therefore, is a citizen of the State of California.

9 34. The true names and/or capacities, whether individual, corporate, partnership,
10 associate, governmental, or otherwise, of Defendant DOES 1 through 100, inclusive, and each of
11 them, are unknown to Plaintiff at this time, who therefore sues said Defendants by such fictitious
12 names. Plaintiff is informed and believes, and thereon alleges, that each Defendant designated
13 herein as a DOE caused injuries and damages proximately thereby to Plaintiff as hereinafter
14 alleged; and that each DOE Defendant is liable to the Plaintiff for the acts and omissions alleged
15 herein below, and the resulting injuries to Plaintiff, and damages sustained by the Plaintiff.
16 Plaintiff will amend this Complaint to allege the true names and capacities of said DOE
17 Defendants when the same are ascertained.

18 35. Plaintiff is informed and believes, and thereon alleges, that at all times herein
19 mentioned, each of the named Defendants and each of the DOE Defendants was the agent, servant,
20 employee, and/or joint venturer of the other co-Defendants and other DOE Defendants, and each
21 of them, and at all said times, each named Defendant and each DOE Defendant was acting in the
22 full course, scope and authority of said agency, service, employment, and/or joint venture.

23 36. Plaintiff is informed and believes and alleges that at all times mentioned herein,
24 Defendants and DOES 1 through 100, inclusive, and each of them, were also known as, formerly
25 known as and/or were the successors and/or predecessors in interest/business/product line/or a
26 portion thereof, assigns, a parent, a subsidiary (wholly or partially owned by, or the whole or
27 partial owner), affiliate, partner, co-venturer, merged company, alter egos, agents, equitable
28 trustees, and/or fiduciaries of and/or were members in an entity or entities engaged in the funding,

1 researching, studying, manufacturing, fabricating, designing, developing, labeling, assembling,
2 distributing, supplying, leasing, buying, offering for sale, selling, inspecting, servicing, contracting
3 others for marketing, warranting, rebranding, manufacturing for others, packaging, and advertising
4 of Roundup® and/or other Monsanto glyphosate-containing products. Defendants and DOES 1
5 through 100, inclusive, and each of them, are liable for the acts, omissions and tortious conduct of
6 their successors and/or predecessors in interest/business/product line/or a portion thereof, assigns,
7 parents, subsidiaries, affiliates, partners, co-venturers, merged companies, alter egos, agents,
8 equitable trustees, fiduciaries, and/or their alternate entities in that Defendants and DOES 1
9 through 100, inclusive, and each of them, enjoy the goodwill originally attached to each such
10 alternate entity, acquired the assets or product line (or portion thereof), and in that there has been a
11 virtual destruction of Plaintiff's remedy against each such alternate entity, and that each such
12 Defendant has the ability to assume the risk spreading role of each such alternate entity.

13 37. Plaintiff is informed and believes, and thereon alleges, that at all times herein
14 mentioned, Defendants and DOES 1 through 100, inclusive, and each of them, were and are
15 corporations organized and existing under the laws of the State of California or the laws of some
16 state or foreign jurisdiction; that each of the said Defendants and DOE Defendants were and are
17 authorized to do and are doing business in the State of California and regularly conducted business
18 in California, including in San Francisco County.

19 38. Upon information and belief, at all relevant times, Defendants and DOES 1 through
20 100, and each of them, inclusive, were engaged in the business of researching, developing,
21 designing, licensing, manufacturing, distributing, selling, marketing, and/or introducing into
22 interstate commerce and into the State of California, including in San Francisco County, either
23 directly or indirectly through third parties or related entities, Roundup® and/or other Monsanto
24 glyphosate-containing products.

25 39. At all relevant times, Defendants and DOES 1 through 100, inclusive, and each of
26 them, conducted regular and sustained business and engaged in substantial commerce and business
27 activity in the State of California, which included but was not limited to selling, marketing and
28

1 distributing Roundup® and/or other Monsanto glyphosate-containing products in the State of
2 California, including in San Francisco County.

3 40. At all relevant times, Defendants and DOES 1 through 100, inclusive, and each of
4 them, expected or should have expected that their acts would have consequences within the United
5 States of America including the State of California, including San Francisco County, and said
6 Defendants derived and derive substantial revenue therefrom.

7 **EQUITABLE TOLLING**

8 41. Plaintiff has suffered an illness that has a latency period and does not arise until
9 years after exposure. Plaintiff had no way of knowing about the risk of serious illness associated
10 with the use of and/or exposure to Roundup® and glyphosate until made aware that Plaintiff's
11 illness, including non-Hodgkin lymphoma could be caused by use and/or exposure to Roundup®.
12 The discovery rule applies, and the statute of limitations was tolled until the day Plaintiff knew or
13 had reason to know that Plaintiff's illnesses, including non-Hodgkin lymphoma, were linked to
14 Plaintiff's use and/or exposure to Roundup®.

15 42. Within the time period of any applicable statute of limitations, Plaintiff could not
16 have discovered through the exercise of reasonable diligence that exposure to Roundup® and
17 glyphosate is injurious to human health.

18 43. Plaintiff did not discover and did not know of facts that would cause a reasonable
19 person to suspect the risk associated with the use of and/or exposure to Roundup® and glyphosate
20 nor would a reasonable and diligent investigation by Plaintiff have disclosed that Roundup® and
21 glyphosate would cause Plaintiff's illnesses.

22 44. The expiration of any applicable statute of limitations has been equitably tolled by
23 reason of Monsanto's fraudulent misrepresentations and fraudulent concealment and fraudulent
24 conduct. Through affirmative misrepresentations and omissions, Defendants actively concealed
25 from Plaintiff the true risks associated with use of and/or exposure to Roundup®.

26 45. As a result of Defendants' actions, Plaintiff could not reasonably have known or
27 learned through reasonable diligence that Plaintiff had been exposed to the risks alleged herein and
28 that those risks were the direct and proximate result of Defendants' acts and omissions.

1 46. Defendants are estopped from relying on any statute of limitations because of their
2 concealment of the truth regarding the safety of Roundup®. Defendants had a duty to disclose the
3 true character, quality and nature of Roundup® because this was non-public information over
4 which Defendants continue to have exclusive control. Defendants knew that this information was
5 not available to Plaintiff, Plaintiff's medical providers and/or health facilities, yet Defendants
6 failed to disclose the information to the public, including Plaintiff.

7 47. Defendants had the ability to and did spend enormous amounts of money in
8 furtherance of the purposes of marketing and promoting a profitable product, notwithstanding the
9 known or reasonably knowable risks. Plaintiff and medical professionals could not have afforded
10 to and could not have possibly conducted studies to determine the nature, extent, and identity of
11 related health risks and were forced to rely on Defendants' representations.

12 FACTS

13 48. Glyphosate is a broad-spectrum, non-selective herbicide used in a wide variety of
14 herbicidal products around the world.

15 49. Plants treated with glyphosate translocate the systemic herbicide to their roots,
16 shoot regions and fruit, where it interferes with the plant's ability to form aromatic amino acids
17 necessary for protein synthesis. Treated plants generally die within two to three days. Because
18 plants absorb glyphosate, it cannot be completely removed by washing or peeling produce or by
19 milling, baking, or brewing grains.

20 50. For nearly 40 years, farms across the world have used Roundup® without knowing
21 of the dangers its use poses.

22 51. That is because when Monsanto first introduced Roundup®, it touted glyphosate as
23 a technological breakthrough: it could kill almost every weed without causing harm either to
24 people or to the environment. Of course, history has shown that not to be true. According to the
25 WHO, the main chemical ingredient of Roundup®—glyphosate—is a probable cause of cancer.
26 Those most at risk are farm workers and other individuals with workplace exposure to Roundup®,
27 such as workers in garden centers, nurseries, and landscapers. Agricultural workers are, once
28 again, victims of corporate greed. Monsanto assured the public that Roundup® was harmless. In

1 order to prove this, Monsanto championed falsified data and attacked legitimate studies that
2 revealed its dangers. Monsanto led a prolonged campaign of misinformation to convince
3 government agencies, farmers and the general population that Roundup® was safe.

4 *The Discovery of Glyphosate and Development of Roundup®*

5 52. The herbicidal properties of glyphosate were discovered in 1970 by Monsanto
6 chemist John Franz. The first glyphosate-based herbicide was introduced to the market in the mid-
7 1970s under the brand name Roundup®. From the outset, Monsanto marketed Roundup® as a
8 “safe” general-purpose herbicide for widespread commercial and consumer use. Monsanto still
9 markets Roundup® as safe today.

10 *Registration of Herbicides under Federal Law*

11 53. The manufacture, formulation and distribution of herbicides, such as Roundup®,
12 are regulated under the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA” or “Act”), 7
13 U.S.C. § 136 *et seq.* FIFRA requires that all herbicides be registered with the Environmental
14 Protection Agency (“EPA” or “Agency”) prior to their distribution, sale, or use, except as
15 described by the Act. 7 U.S.C. § 136a (a).

16 54. Because herbicides are toxic to plants, animals, and humans, at least to some
17 degree, the EPA requires as part of the registration process, among other things, a variety of tests
18 to evaluate the potential for exposure to herbicides, toxicity to people and other potential non-
19 target organisms, and other adverse effects on the environment. Registration by the EPA, however,
20 is not an assurance or finding of safety. The determination the Agency must make in registering or
21 re-registering a product is not that the product is “safe,” but rather that use of the product in
22 accordance with its label directions “will not generally cause unreasonable adverse effects on the
23 environment.” 7 U.S.C. § 136a(c) (5) (D).

24 55. FIFRA defines “unreasonable adverse effects on the environment” to mean “any
25 unreasonable risk to man or the environment, taking into account the economic, social, and
26 environmental costs and benefits of the use of any pesticide.” 7 U.S.C. § 136(bb). FIFRA thus
27 requires EPA to make a risk/benefit analysis in determining whether a registration of a product
28 should be granted or allowed so that the product may continue to be sold in commerce.

1 56. The EPA registered Roundup® for distribution, sale, and manufacture in the United
2 States including the State of California. However, the EPA’s decision to register Roundup was
3 based on studies on the active chemical, glyphosate, and not the formulated Roundup product
4 which contains a cocktail of other ingredients such as surfactants, adjuvants, and inert compounds,
5 all of which, as discussed in greater detail below, contribute to the health risks associated with
6 Roundup exposure.¹

7 57. FIFRA generally requires the registrant, Monsanto in the case of Roundup®, to
8 conduct health and safety testing of herbicide products. The EPA has protocols governing the
9 conduct of tests required for registration and the laboratory practices that must be followed in
10 conducting these tests. The data produced by the registrant must be submitted to the EPA for
11 review and evaluation. The government is not required, nor is it able, however, to perform the
12 product tests that are required of the manufacturer.

13 58. The evaluation of each herbicide product distributed, sold, or manufactured is
14 completed at the time the product is initially registered. The data necessary for registration of an
15 herbicide has changed over time. The EPA is now in the process of re-evaluating all herbicide
16 products through a Congressionally-mandated process called “re-registration.” 7 U.S.C. § 136a-1.
17 In order to reevaluate these herbicides, the EPA is demanding the completion of additional tests
18 and the submission of data for the EPA’s review and evaluation.

19 59. The EPA completed its review of glyphosate in early 2015 but delayed releasing
20 the risk assessment pending further review in light of the WHO’s health-related findings. On
21 September 12, 2016, the EPA’s office of Pesticide Programs released an interim report, titled
22 “Glyphosate Issue Paper: Evaluation of Carcinogenic Potential,” (“2016 Issue Paper”) detailing
23 the agency’s review of a small portion of the existing literature on Roundup. The 2016 Issue
24 Paper contains a review of studies submitted to the agency by Monsanto, as well as the general
25 independent scientific literature on glyphosate carcinogenicity.

26
27
28 ¹ Surfactants are compounds which contribute to the even and effective spread of glyphosate across the surface of a
leaf and increase the rate of penetration through the plant. It has been shown that surfactants also greatly increase the
amount and rate of Roundup® absorbed by human skin.

1 60. Immediately following the publication of the 2016 Issue Paper, the FIFRA
2 Scientific Advisory Panel (“SAP”) issued a report which reviewed the EPA’s 2016 Issue Paper,
3 and the conclusions therein. The SAP strongly criticized the EPA’s conclusions and questioned
4 the scientific approach of the agency, noting that that agency had failed to follow its own
5 guidelines.

6 ***Scientific Fraud Underlying the Marketing and Sale of Glyphosate/Roundup®***

7 61. Based on early studies that glyphosate could cause cancer in laboratory animals, the
8 EPA originally classified glyphosate as *possibly carcinogenic to humans* (Group C) in 1985. After
9 pressure from Monsanto, including contrary studies it provided to the EPA, in 1991 the EPA
10 changed its classification to *evidence of non-carcinogenicity in humans* (Group E). In so
11 classifying glyphosate, however, the EPA made clear that the designation did not mean the
12 chemical does not cause cancer: “It should be emphasized, however, that designation of an agent
13 in Group E is based on the available evidence at the time of evaluation and should not be
14 interpreted as a definitive conclusion that the agent will not be a carcinogen under any
15 circumstances.”

16 62. On two occasions, the EPA found that the laboratories hired by Monsanto to test
17 the toxicity of its Roundup® products for registration purposes committed fraud.

18 63. In the first instance, Monsanto, in seeking initial registration of Roundup® by EPA,
19 hired Industrial Bio-Test Laboratories (“IBT”) to perform and evaluate herbicide toxicology
20 studies relating to Roundup®. IBT performed about 30 tests on glyphosate and glyphosate-
21 containing products, including nine of the 15 residue studies needed to register Roundup®.

22 64. In 1976, the United States Food and Drug Administration (“FDA”) performed an
23 inspection of Industrial Bio-Test Industries (“IBT”) that revealed discrepancies between the raw
24 data and the final report relating to the toxicological impacts of glyphosate. The EPA subsequently
25 audited IBT; it too found the toxicology studies conducted for the Roundup® herbicide to be
26 invalid. An EPA reviewer stated, after finding “routine falsification of data” at IBT, that it was
27 “hard to believe the scientific integrity of the studies when they said they took specimens of the
28 uterus from male rabbits.”

1 65. Three top executives of IBT were convicted of fraud in 1983.

2 66. In the second incident of data falsification, Monsanto hired Craven Laboratories in
3 1991 to perform pesticide and herbicide studies, including for Roundup®. In that same year, the
4 owner of Craven Laboratories and three of its employees were indicted, and later convicted, of
5 fraudulent laboratory practices in the testing of pesticides and herbicides.

6 67. Despite the falsity of the tests that underlie its registration, within a few years of its
7 launch, Monsanto was marketing Roundup® in 115 countries.

8 68. Multiple studies have been ghostwritten in part and/or published by Monsanto
9 through companies such as Intertek, from 2000 through the present which minimize any safety
10 concerns about the use of glyphosate. The studies are used to convince regulators to allow the sale
11 of Roundup® and customers to use Roundup®. Such studies include, but are not limited to,
12 Williams (2000); Williams (2012); Kier & Kirkland (2013); Kier (2015); Bus (2016); Chang
13 (2016); and the Intertek Expert Panel Manuscripts. All of these studies have been submitted to and
14 relied upon by the public and the EPA in assessing the safety of glyphosate. Through these
15 means, Monsanto has fraudulently represented that independent scientists have concluded that
16 Glyphosate is safe. In fact, Monsanto paid these so-called “independent experts,” and Monsanto
17 failed to disclose the significant role Monsanto had in creating the manuscripts produced by the
18 “independent” experts. Further, Monsanto has ghostwritten editorials to advocate for the safety of
19 glyphosate in newspapers and magazines for scientists such as Robert Tarone and Henry Miller.
20 Monsanto has also ghostwritten letters by supposedly independent scientists which have been
21 submitted to regulatory agencies who are reviewing the safety of glyphosate.

22 69. Monsanto has also violated federal regulations in holding secret ex parte meetings
23 and conversations with certain EPA employees to collude in a strategy to re-register glyphosate
24 and to quash investigations into the carcinogenicity of glyphosate by other federal agencies such
25 as the Agency for Toxic Substances and Disease Registry. Monsanto’s close connection with the
26 EPA arises in part from its offering of lucrative consulting gigs to retiring EPA officials. In March
27 2015, The Joint Glyphosate Task Force, at Monsanto’s behest, issued a press release sharply
28 criticizing IARC, stating that IARC’s conclusion was “baffling” and falsely claiming that “IARC

1 did not consider any new or unique research findings when making its decision. It appears that
2 only by deciding to exclude certain available scientific information and by adopting a different
3 approach to interpreting the studies was this possible.”

4 70. Beginning in 2011, the Federal Institute for Risk Assessment (BfR) in Germany
5 began preparing a study on the safety of glyphosate. Through the Glyphosate Task Force,
6 Defendants were able to co-opt this study, becoming the sole providers of data and ultimately
7 writing the report, which was rubber-stamped by the BfR. The Glyphosate Task Force was solely
8 responsible for preparing and submitting a summary of studies relied upon by the BfR.
9 Defendants have used this self-serving report (which they, in fact, wrote) to falsely proclaim the
10 safety of glyphosate. In October 2015, the Defendants, as members of the Joint Glyphosate Task
11 Force, wrote to the state of California to try to stop California from warning the public about the
12 carcinogenicity of glyphosate, arguing that the IARC classification was mistaken. In January of
13 2016, Monsanto filed a lawsuit to stop California from warning the public about the
14 carcinogenicity of glyphosate.

15
16 ***The Importance of Roundup® to Monsanto’s Market Dominance Profits***

17 71. The success of Roundup® was key to Monsanto’s continued reputation and
18 dominance in the marketplace. Largely due to the success of Roundup® sales, Monsanto’s
19 agriculture division was out-performing its chemicals division’s operating income, and that gap
20 increased yearly. But with its patent for glyphosate expiring in the United States in the year 2000,
21 Monsanto needed a strategy to maintain its Roundup® market dominance and to ward off
22 impending competition.

23 72. In response, Monsanto began the development and sale of genetically engineered
24 Roundup Ready® seeds in 1996. Since Roundup Ready® crops are resistant to glyphosate,
25 farmers can spray Roundup® onto their fields during the growing season without harming the
26 crop. This allowed Monsanto to expand its market for Roundup® even further. By 2000,
27 Monsanto’s biotechnology seeds were planted on more than 80 million acres worldwide, and
28 nearly 70% of American soybeans were planted from Roundup Ready® seeds. It also secured

1 Monsanto's dominant share of the glyphosate/Roundup® market through a marketing strategy that
2 coupled proprietary Roundup Ready® seeds with continued sales of its Roundup® herbicide.

3 73. Through a three-pronged strategy of increased production, decreased prices, and by
4 coupling Roundup Ready® seeds with Roundup® herbicide, Roundup® became Monsanto's most
5 profitable product. In 2000, Roundup® accounted for almost \$2.8 billion in sales, outselling other
6 herbicides by a margin of five to one and accounting for close to half of Monsanto's revenue.
7 Today, glyphosate remains one of the world's largest herbicides by sales volume.

8 *Monsanto has known for decades that it falsely advertises the safety of Roundup®.*

9 74. In 1996, the New York Attorney General ("NYAG") filed a lawsuit against
10 Monsanto based on its false and misleading advertising of Roundup ® products. Specifically, the
11 lawsuit challenged Monsanto's general representations that its spray-on glyphosate-based
12 herbicides, including Roundup®, were "safer than table salt" and "practically non-toxic" to
13 mammals, birds, and fish. Among the representations the NYAG found deceptive and misleading
14 about the human and environmental safety of Roundup® are the following:

- 15 (a) Remember that environmentally friendly Roundup® herbicide is biodegradable. It
16 won't build up in the soil so you can use Roundup® with confidence along
17 customers' driveways, sidewalks and fences
- 18 (b) And remember that Roundup® is biodegradable and won't build up in the soil.
19 That will give you the environmental confidence you need to use Roundup®
20 everywhere you've got a weed, brush, edging or trimming problem.
- 21 (c) Roundup® biodegrades into naturally occurring elements.
- 22 (d) Remember that versatile Roundup® herbicide stays where you put it. That means
23 there's no washing or leaching to harm customers' shrubs or other desirable
24 vegetation.
- 25 (e) This non-residual herbicide will not wash or leach in the soil. It . . . stays where you
26 apply it.
- 27 (f) You can apply Accord (glyphosate-containing herbicide) with "confidence because
28 it will stay where you put it;" it bonds tightly to soil particles, preventing leaching.

1 Then, soon after application, soil microorganisms biodegrade Accord into natural
2 products.

3 (g) Glyphosate is less toxic to rats than table salt following acute oral ingestion.

4 (h) Glyphosate's safety margin is much greater than required. It has over a 1,000-fold
5 safety margin in food and over a 700-fold safety margin for workers who
6 manufacture or use it.

7 (i) You can feel good about using herbicides by Monsanto. They carry a toxicity
8 category rating of 'practically non-toxic' as it pertains to mammals, birds and fish.

9 (j) "Roundup can be used where kids and pets will play and breaks down into natural
10 material." This ad depicts a person with his head in the ground and a pet dog
11 standing in an area which has been treated with Roundup.

12 75. On November 19, 1996, Monsanto entered into an Assurance of Discontinuance
13 with NYAG, in which Monsanto agreed, among other things, "to cease and desist from publishing
14 or broadcasting any advertisements [in New York] that represent, directly or by implication" that:

15 (a) its glyphosate-containing herbicide products or any component thereof are safe,
16 non-toxic, harmless or free from risk. * * *

17 (b) its glyphosate-containing herbicide products or any component thereof
18 manufactured, formulated, distributed or sold by Monsanto are biodegradable * * *

19 (c) its glyphosate-containing herbicide products or any component thereof stay where
20 they are applied under all circumstances and will not move through the
21 environment by any means.

22 * * *

23 (d) its glyphosate-containing herbicide products or any component thereof are "good"
24 for the environment or are "known for their environmental characteristics." * * *

25 (e) glyphosate-containing herbicide products or any component thereof are safer or less
26 toxic than common consumer products other than herbicides;

27 (f) its glyphosate-containing products or any component thereof might be classified as
28 "practically non-toxic."

1 76. Monsanto did not alter its advertising in the same manner in any state other than
2 New York, and, on information and belief, still has not done so today.

3 77. In 2009, France’s highest court ruled that Monsanto had not told the truth about the
4 safety of Roundup®. The French court affirmed an earlier judgement that Monsanto had falsely
5 advertised its herbicide Roundup® as “biodegradable” and that it “left the soil clean.”

6 ***Classifications and Assessments of Glyphosate***

7 78. The IARC process for the classification of glyphosate followed the stringent
8 procedures for the evaluation of a chemical agent. Over time, the IARC Monograph program has
9 reviewed 980 agents. Of those reviewed, it has determined 116 agents to be Group 1 (Known
10 Human Carcinogens); 73 agents to be Group 2A (Probable Human Carcinogens); 287 agents to be
11 Group 2B (Possible Human Carcinogens); 503 agents to be Group 3 (Not Classified); and one
12 agent to be Probably Not Carcinogenic.

13 79. The established procedure for IARC Monograph evaluations is described in the
14 IARC Programme’s Preamble. Evaluations are performed by panels of international experts,
15 selected on the basis of their expertise and the absence of actual or apparent conflicts of interest.

16 80. One year before the Monograph meeting, the meeting is announced and there is a
17 call both for data and for experts. Eight months before the Monograph meeting, the Working
18 Group membership is selected, and the sections of the Monograph are developed by the Working
19 Group members. One month prior to the Monograph meeting, the call for data is closed, and the
20 various draft sections are distributed among Working Group members for review and comment.
21 Finally, at the Monograph meeting, the Working Group finalizes review of all literature, evaluates
22 the evidence in each category, and completes the overall evaluation. Within two weeks after the
23 Monograph meeting, the summary of the Working Group findings is published in *Lancet*
24 *Oncology*, and within a year after the meeting, the final Monograph is finalized and published.

25 81. In assessing a chemical agent, the IARC Working Group reviews the following
26 information:

- 27 (a) human, experimental, and mechanistic data;
28 (b) all pertinent epidemiological studies and cancer bioassays; and

1 (c) representative mechanistic data.

2 The studies must be publicly available and have sufficient detail for meaningful review,
3 and reviewers cannot be associated with the underlying study.

4 82. In March of 2015, IARC reassessed glyphosate. The summary published in *The*
5 *Lancet Oncology* reported that glyphosate is a Group 2A agent, that is, glyphosate is probably
6 carcinogenic in humans.

7 83. On July 29, 2015, IARC issued its Monograph for glyphosate, Monograph 112. For
8 Volume 112, the volume that assessed glyphosate, a Working Group of 17 experts from 11
9 countries met at IARC from March 3–10, 2015, to assess the carcinogenicity of certain herbicides,
10 including glyphosate. The March meeting culminated nearly a one-year review and preparation by
11 the IARC Secretariat and the Working Group, including a comprehensive review of the latest
12 available scientific evidence. According to published procedures, the Working Group considered
13 “reports that have been published or accepted for publication in the openly available scientific
14 literature” as well as “data from governmental reports that are publicly available.”

15 84. The studies considered the following exposure groups: occupational exposure of
16 farmers and tree nursery workers in the United States, forestry workers in Canada and Finland and
17 municipal weed-control workers in the United Kingdom; and para-occupational exposure in
18 farming families.

19 85. Glyphosate was identified as the second-most used household herbicide in the
20 United States for weed control between 2001 and 2007 and the most heavily used herbicide in the
21 world in 2012.

22 86. Exposure pathways are identified as air (especially during spraying), water, and
23 food. Community exposure to glyphosate is widespread and found in soil, air, surface water, and
24 groundwater, as well as in food.

25 87. The assessment of the IARC Working Group identified several case control studies
26 of occupational exposure in the United States, Canada, and Sweden. These studies show a human
27 health concern from agricultural and other work-related exposure to glyphosate.

28

1 88. The IARC Working Group found an increased risk between exposure to glyphosate
2 and NHL and several subtypes of NHL, and the increased risk persisted after adjustment for other
3 pesticides.

4 89. The IARC Working Group also found that glyphosate caused DNA and
5 chromosomal damage in human cells. One study in community residents reported increases in
6 blood markers of chromosomal damage (micronuclei) after glyphosate formulations were sprayed.

7 90. In male CD-1 mice, glyphosate induced a positive trend in the incidence of a rare
8 tumor, renal tubule carcinoma. A second study reported a positive trend for haemangiosarcoma in
9 male mice. Glyphosate increased pancreatic islet-cell adenoma in male rats in two studies. A
10 glyphosate formulation promoted skin tumors in an initiation-promotion study in mice.

11 91. The IARC Working Group also noted that glyphosate has been detected in the urine
12 of agricultural workers, indicating absorption. Soil microbes degrade glyphosate to
13 aminomethylphosphoric acid (AMPA). Blood AMPA detection after exposure suggests intestinal
14 microbial metabolism in humans.

15 92. The IARC Working Group further found that glyphosate and glyphosate
16 formulations induced DNA, oxidative stress, and chromosomal damage in mammals and in human
17 and animal cells in utero.

18 93. In addition to DNA damage and oxidative stress, scientists have suggested that
19 Roundup®'s association with various serious health conditions is linked to the effect Roundup®
20 has on the digestive system. Specifically, scientists believe the same mechanism that makes
21 Roundup® toxic to weeds also makes it toxic to the microbes within the human gut and mucous
22 membranes. When humans are exposed to Roundup®, this exposure leads to a chronic
23 inflammatory state in the gut, as well an impaired gut barrier, which can lead to many long-term
24 health effects, including an increased risk of cancer. Monsanto has deliberately refused to conduct
25 tests on this aspect of Roundup®'s mechanism of action.

26 94. Many Roundup® products bear a label which either reads: "glyphosate targets an
27 enzyme found in plants but not in people or pets" or "this Roundup formula targets an enzyme in
28 plants but not in people or pets." These statements are false because it has been established that the

1 human body is host to microorganisms which contain the enzyme Monsanto asserts is not found in
2 humans. Thus, glyphosate targets microbes within the human body which have the enzyme,
3 leading to a variety of adverse health effects.

4 95. Thus, glyphosate targets microbes within the human body which contain the
5 enzyme affected by glyphosate, leading to a variety of adverse health effects. The IARC Working
6 Group also noted genotoxic, hormonal, and enzymatic effects in mammals exposed to glyphosate.
7 Essentially, glyphosate inhibits the biosynthesis of aromatic amino acids, which leads to several
8 metabolic disturbances, including the inhibition of protein and secondary product biosynthesis and
9 general metabolic disruption.

10 96. The IARC Working Group also reviewed an Agricultural Health Study consisting
11 of a prospective cohort of 57,311 licensed pesticide applicators in Iowa and North Carolina. While
12 this study differed from others in that it was based on a self-administered questionnaire, the results
13 support an association between glyphosate exposure and Multiple Myeloma, Hairy Cell Leukemia
14 (HCL), and Chronic Lymphocytic Leukemia (CLL), in addition to several other cancers.

15 ***Other Earlier Findings about Glyphosate's Dangers to Human Health***

16 97. The EPA has a technical fact sheet, as part of its Drinking Water and Health,
17 National Primary Drinking Water Regulations publication, relating to glyphosate. This technical
18 fact sheet predates the IARC March 20, 2015, evaluation. The fact sheet describes the release
19 patterns for glyphosate as follows:

20 **Release Patterns**

21 98. Glyphosate is released to the environment in its use as an herbicide for controlling
22 woody and herbaceous weeds on forestry, right-of-way, cropped, and non-cropped sites. These
23 sites may be around water and in wetlands.

24 99. It may also be released to the environment during its manufacture, formulation,
25 transport, storage, disposal and cleanup, and from spills. Since glyphosate is not a listed chemical
26 in the Toxics Release Inventory, data on releases during its manufacture and handling are not
27 available.

1 100. Occupational workers and home gardeners may be exposed to glyphosate by
2 inhalation and dermal contact during spraying, mixing, and cleanup. They may also be exposed by
3 touching soil and plants to which glyphosate was applied. Occupational exposure may also occur
4 during glyphosate's manufacture, transport, storage, and disposal.

5 101. In 1995, the Northwest Coalition for Alternatives to Pesticides reported that in
6 California, the state with the most comprehensive program for reporting of pesticide-caused
7 illness, glyphosate was the third most commonly-reported cause of pesticide illness among
8 agricultural workers.

9 ***Recent Worldwide Bans on Roundup®/Glyphosate***

10 102. Several countries around the world have instituted bans on the sale of Roundup®
11 and other glyphosate-containing herbicides, both before and since IARC first announced its
12 assessment for glyphosate in March 2015, and more countries undoubtedly will follow suit in light
13 of this assessment as the dangers of the use of Roundup® are more widely known. The
14 Netherlands issued a ban on all glyphosate-based herbicides in April 2014, including Roundup®,
15 which takes effect by the end of 2015. In issuing the ban, the Dutch Parliament member who
16 introduced the successful legislation stated: "Agricultural pesticides in user-friendly packaging are
17 sold in abundance to private persons. In garden centers, Roundup® is promoted as harmless, but
18 unsuspecting customers have no idea what the risks of this product are. Especially children are
19 sensitive to toxic substances and should therefore not be exposed to it."

20 103. The Brazilian Public Prosecutor in the Federal District requested that the Brazilian
21 Justice Department suspend the use of glyphosate.

22 104. France banned the private sale of Roundup® and glyphosate following the IARC
23 assessment for Glyphosate.

24 105. Bermuda banned both the private and commercial sale of glyphosates, including
25 Roundup®. The Bermuda government explained its ban as follows: "Following a recent scientific
26 study carried out by a leading cancer agency, the importation of weed spray 'Roundup' has been
27 suspended."
28

1 106. The Sri Lankan government banned the private and commercial use of glyphosates,
2 particularly out of concern that glyphosate has been linked to fatal kidney disease in agricultural
3 workers.

4 107. The government of Columbia announced its ban on using Roundup® and
5 glyphosate to destroy illegal plantations of coca, the raw ingredient for cocaine, because of the
6 WHO's finding that glyphosate is probably carcinogenic.

7 108. On information and belief, Wilbur-Ellis was, at all relevant times, engaged in the
8 distribution of Roundup®, Roundup-ready® crops and other glyphosate-containing products from
9 Monsanto to retailers and commercial/agricultural users in California.

10 109. Wilbur-Ellis had superior knowledge compared to Roundup® users and consumers,
11 including regarding the carcinogenic properties of the product, yet failed to accompany its sales
12 and or marketing of Roundup® with any warnings or precautions for that grave danger. On
13 information and belief, Wilbur-Ellis was one of the distributors providing Roundup® and other
14 glyphosate-containing products used by the Plaintiff and to which Plaintiff was exposed.

15 110. On information and belief, Crown Ace Hardware was, at relevant times, engaged in
16 the marketing and retailing of Roundup®, Roundup-ready® crops and other glyphosate-containing
17 products from Monsanto to customers in California, including Plaintiff.

18 111. Crown Ace Hardware had superior knowledge compared to Roundup® users and
19 consumers, including regarding the carcinogenic properties of the product, yet failed to
20 accompany its sales and or marketing of Roundup® with any warnings or precautions for that
21 grave danger. On information and belief, Crown Ace Hardware was a retailer providing
22 Roundup® and other glyphosate-containing products to Plaintiff, resulting in the exposure of
23 Plaintiff.

24 **LIMITATION ON ALLEGATIONS**

25 112. Plaintiff incorporates by reference each allegation set forth in preceding paragraphs
26 as if fully stated herein.

27 113. The allegations in this pleading are made pursuant to California law. To the extent
28 California law imposes a duty or obligation on Defendants that exceeds those required by federal

1 law, Plaintiff does not assert such claims. All claims asserted herein run parallel to federal law,
2 *i.e.*, the Defendants' violations of California law were also violations of federal law. Had
3 Defendants honestly complied with California law, they would also have complied with federal
4 law.

5 114. Additionally, Plaintiff's claims do not seek to enforce federal law. These claims are
6 brought under California law, notwithstanding that such claims run parallel to federal law.

7 115. As alleged herein, Defendants violated U.S.C. § 136j and 40 C.F.R. § 156.10(a)(5)
8 by distributing Roundup®, which was misbranded pursuant to 7 U.S.C. § 136(g). Federal law
9 specifically prohibits the distribution of a misbranded herbicide.

10 **COUNT I: STRICT LIABILITY (DESIGN DEFECT)**

11 116. Plaintiff incorporates by reference each allegation set forth in preceding paragraphs
12 as if fully stated herein.

13 117. Plaintiff brings this strict liability claim against Defendants for defective design.

14 118. At all relevant times, Defendants engaged in the business of testing, developing,
15 designing, manufacturing, marketing, selling, distributing, and promoting Roundup® products,
16 which are defective and unreasonably dangerous to consumers, including Plaintiff, thereby placing
17 Roundup® products into the stream of commerce. These actions were under the ultimate control
18 and supervision of Defendants. At all relevant times, Defendants designed, researched, developed,
19 manufactured, produced, tested, assembled, labeled, advertised, promoted, marketed, sold, and
20 distributed the Roundup® products used by Plaintiff, as described herein.

21 119. At all relevant times, Defendants' Roundup® products were manufactured,
22 designed, and labeled in an unsafe, defective, and inherently dangerous manner that was
23 dangerous for use by or exposure to the public, including Plaintiff.

24 120. At all relevant times, Defendants' Roundup® products reached the intended
25 consumers, handlers, and users or other persons coming into contact with these products in
26 California and throughout the United States, including Plaintiff, without substantial change in their
27 condition as designed, manufactured, sold, distributed, labeled, and marketed by Defendants. At
28 all relevant times, Defendants registered, researched, manufactured, distributed, marketed, and

1 sold Roundup® and other glyphosate-based formulations within California and aimed at a
2 California consumer and industrial market. The Wilbur-Ellis Defendants were at all relevant times
3 involved in the marketing, distribution, and sale of Roundup® and glyphosate-based formulations
4 marketed and sold in California. Crown Ace Hardware was at relevant times involved in the
5 marketing and sale of Roundup® and glyphosate-based formulations marketed and sold in
6 California to Plaintiff.

7 121. Defendants' Roundup® products, as researched, tested, developed, designed,
8 licensed, manufactured, packaged, labeled, distributed, sold, and marketed by Defendants were
9 defective in design and formulation in that, when they left the control of Defendants'
10 manufacturers and/or suppliers, they were unreasonably dangerous and dangerous to an extent
11 beyond that which an ordinary consumer would contemplate.

12 122. Defendants' Roundup® products, as researched, tested, developed, designed,
13 licensed, manufactured, packaged, labeled, distributed, sold, and marketed by Defendants were
14 defective in design and formulation in that, when they left the hands of Defendants' manufacturers
15 and/or suppliers, the foreseeable risks exceeded the alleged benefits associated with their design
16 and formulation.

17 123. At all relevant times, Defendants knew or had reason to know that Roundup®
18 products were defective and were inherently dangerous and unsafe when used in the manner
19 instructed and provided by Defendants.

20 124. Therefore, at all relevant times, Defendants' Roundup® products, as researched,
21 tested, developed, designed, registered, licensed, manufactured, packaged, labeled, distributed,
22 sold, and marketed by Defendants were defective in design and formulation, in one or more of the
23 following ways:

- 24 a. When placed in the stream of commerce, Defendants' Roundup® products were
25 defective in design and formulation, and, consequently, dangerous to an extent
26 beyond that which an ordinary consumer would contemplate;
- 27 b. When placed in the stream of commerce, Defendants' Roundup® products were
28 unreasonably dangerous in that they were hazardous and posed a grave risk of

1 cancer and other serious illnesses when used in a reasonably anticipated manner;

- 2 c. When placed in the stream of commerce, Defendants' Roundup® products
3 contained unreasonably dangerous design defects and were not reasonably safe
4 when used in a reasonably anticipated or intended manner;
- 5 d. Defendants did not sufficiently test, investigate, or study its Roundup® products
6 and, specifically, the active ingredient glyphosate;
- 7 e. Exposure to Roundup® and glyphosate-containing products presents a risk of
8 harmful side effects that outweigh any potential utility stemming from the use of
9 the herbicide;
- 10 f. Defendants knew or should have known at the time of marketing Roundup®
11 products that exposure to Roundup® and specifically, its active ingredient
12 glyphosate, could result in cancer and other severe illnesses and injuries;
- 13 g. Defendants did not conduct adequate post-marketing surveillance of its Roundup®
14 products; and
- 15 h. Defendants could have employed safer alternative designs and formulations.

16 125. Plaintiff was exposed to Defendants' Roundup® products without knowledge of
17 Roundup®'s dangerous characteristics.

18 126. At all times relevant to this litigation, Plaintiff used and/or was exposed to the use of
19 Defendants' Roundup® products in an intended or reasonably foreseeable manner without
20 knowledge of Roundup®'s dangerous characteristics.

21 127. Plaintiff could not reasonably have discovered the defects and risks associated with
22 Roundup® or glyphosate-containing products before or at the time of exposure due to the
23 Defendants' suppression of scientific information linking glyphosate to cancer.

24 128. The harm caused by Defendants' Roundup® products far outweighed their benefit,
25 rendering Defendants' product dangerous to an extent beyond that which an ordinary consumer
26 would contemplate. Defendants' Roundup® products were and are more dangerous than
27 alternative products, and Defendants could have designed Roundup® products to make them less
28 dangerous. Indeed, at the time Defendants designed Roundup® products, the state of the

1 industry's scientific knowledge was such that a less risky design or formulation was attainable.

2 129. At the time Roundup® products left Defendants' control, there was a practical,
3 technically feasible and safer alternative design that would have prevented the harm without
4 substantially impairing the reasonably anticipated or intended function of Defendants' herbicides.

5 130. Defendants' defective design of Roundup® products was willful, wanton,
6 fraudulent, malicious, and conducted with reckless disregard for the health and safety of users of
7 the Roundup® products, including Plaintiff.

8 131. Therefore, as a result of the unreasonably dangerous condition of their Roundup®
9 products, Defendants are strictly liable to Plaintiff.

10 132. The defects in Defendants' Roundup® products were substantial and contributing
11 factors in causing Plaintiff's injuries, and, but for Defendants' misconduct and omissions, Plaintiff
12 would not have sustained injuries.

13 133. Defendants' conduct, as described above, was reckless. Defendants risked the lives
14 of consumers and users of its products, including Plaintiff, with knowledge of the safety problems
15 associated with Roundup® and glyphosate-containing products, and suppressed this knowledge
16 from the general public. Defendants made conscious decisions not to redesign, warn or inform the
17 unsuspecting public. Defendants' reckless conduct warrants an award of punitive damages.

18 134. As a direct and proximate result of Defendants placing its defective Roundup®
19 products into the stream of commerce, and the resulting injuries, Plaintiff has sustained pecuniary
20 loss including general damages in a sum which exceeds the jurisdictional minimum of this Court.

21 135. As a proximate result of Defendants placing its defective Roundup® products into
22 the stream of commerce, as alleged herein, there was a measurable and significant interval of time
23 during which Plaintiff has suffered great mental anguish and other personal injury and damages.

24 136. As a proximate result of the Defendants placing its defective Roundup® products
25 into the stream of commerce, as alleged herein, Plaintiff sustained loss of income, loss of earning
26 capacity and/or property damage.

27 137. WHEREFORE, Plaintiff respectfully requests this Court to enter judgment in
28 Plaintiff's favor for compensatory and punitive damages, together with interest, costs herein

1 incurred, attorneys' fees and all such other and further relief as this Court deems just and proper.

2 **COUNT II: STRICT LIABILITY (FAILURE TO WARN)**

3 138. Plaintiff incorporates by reference each allegation set forth in preceding paragraphs
4 as if fully stated herein.

5 139. Plaintiff brings this strict liability claim against Defendants for failure to warn.

6 140. At all relevant times, Defendants engaged in the business of testing, developing,
7 designing, manufacturing, marketing, selling, distributing, and promoting Roundup® products
8 which are defective and unreasonably dangerous to consumers, including Plaintiff, because they do
9 not contain adequate warnings or instructions concerning the dangerous characteristics of
10 Roundup® and specifically, the active ingredient glyphosate. These actions were under the ultimate
11 control and supervision of Defendants. At all relevant times, Defendants registered, researched,
12 manufactured, distributed, marketed and sold Roundup® and other glyphosate-based formulations
13 within California and aimed at a California consumer and industrial market. The Wilbur-Ellis
14 Defendants were at all relevant times involved in the marketing, distribution, and sale of Roundup®
15 and glyphosate-based formulations marketed and sold in California. Crown Ace Hardware was at
16 relevant times involved in the marketing and sale of Roundup® and glyphosate-based formulations
17 marketed and sold in California to Plaintiff.

18 141. Defendants researched, developed, designed, tested, manufactured, inspected,
19 labeled, distributed, marketed, promoted, sold, and otherwise released into the stream of
20 commerce its Roundup® products, and in the course of same, directly advertised or marketed the
21 products to consumers and end users, including Plaintiff, and therefore had a duty to warn of the
22 risks associated with the use of Roundup® and glyphosate-containing products.

23 142. At all relevant times, Defendants had a duty to properly test, develop, design,
24 manufacture, inspect, package, label, market, promote, sell, distribute, maintain, supply, provide
25 proper warnings, and take such steps as necessary to ensure its Roundup® products did not cause
26 users and consumers to suffer from unreasonable and dangerous risks. Defendants had a continuing
27 duty to warn Plaintiff of dangers associated with Roundup use and exposure. Defendants, as
28 manufacturer, seller, or distributor of chemical herbicides are held to the knowledge of an expert in

1 the field.

2 143. At the time of manufacture, Defendants could have provided the warnings or
3 instructions regarding the full and complete risks of Roundup® and glyphosate-containing
4 products because they knew or should have known of the unreasonable risks of harm associated
5 with the use of and/or exposure to such products.

6 144. At all relevant times, Defendants failed and deliberately refused to investigate,
7 study, test, or promote the safety or to minimize the dangers to users and consumers of their
8 product and to those who would foreseeably use or be harmed by Defendants' herbicides,
9 including Plaintiff.

10 145. Despite the fact that Defendants knew or should have known that Roundup® posed
11 a grave risk of harm, they failed to exercise reasonable care to warn of the dangerous risks
12 associated with use and exposure. The dangerous propensities of their products and the
13 carcinogenic characteristics of glyphosate, as described above, were known to Defendants, or
14 scientifically knowable to Defendants through appropriate research and testing by known methods,
15 at the time they distributed, supplied or sold the product, and were not known to end users and
16 consumers, such as Plaintiff.

17 146. Defendants knew or should have known that their products created significant risks
18 of serious bodily harm to consumers, as alleged herein, and Defendants failed to adequately warn
19 consumers, *i.e.*, the reasonably foreseeable users, of the risks of exposure to its products.
20 Defendants have wrongfully concealed information concerning the dangerous nature of Roundup®
21 and its active ingredient glyphosate and, further, have made false and/or misleading statements
22 concerning the safety of Roundup® products and glyphosate.

23 147. At all relevant times, Defendants' Roundup® products reached the intended
24 consumers, handlers, and users or other persons coming into contact with these products in
25 California and throughout the United States, including Plaintiff, without substantial change in their
26 condition as designed, manufactured, sold, distributed, labeled, and marketed by Defendants.

27 148. Plaintiff was exposed to Defendants' Roundup® products without knowledge of
28 their dangerous characteristics.

1 149. At all relevant times, Plaintiff used and/or was exposed to the use of Defendants'
2 Roundup® products while using them for their intended or reasonably foreseeable purposes,
3 without knowledge of their dangerous characteristics.

4 150. Plaintiff could not have reasonably discovered the defects and risks associated with
5 Roundup® or glyphosate-containing products prior to or at the time of Plaintiff's exposure.
6 Plaintiff relied upon the skill, superior knowledge, and judgment of Defendants to know about and
7 disclose serious health risks associated with using Defendants' products.

8 151. Defendants knew or should have known that the minimal warnings disseminated
9 with their Roundup® products were inadequate, failed to communicate adequate information on
10 the dangers and safe use/exposure, and failed to communicate warnings and instructions that were
11 appropriate and adequate to render the products safe for their ordinary, intended and reasonably
12 foreseeable uses, including agricultural and horticultural applications.

13 152. The information that Defendants did provide or communicate failed to contain
14 relevant warnings, hazards, and precautions that would have enabled consumers such as Plaintiff to
15 utilize the products safely and with adequate protection. Instead, Defendants disseminated
16 information that was inaccurate, false and misleading, and which failed to communicate accurately
17 or adequately the comparative severity, duration, and extent of the risk of injuries with use of
18 and/or exposure to Roundup® and glyphosate; continued to aggressively promote the efficacy of its
19 products, even after they knew or should have known of the unreasonable risks from use or
20 exposure; and concealed, downplayed, or otherwise suppressed, through aggressive marketing and
21 promotion, any information or research about the risks and dangers of exposure to Roundup and
22 glyphosate.

23 153. This alleged failure to warn is not limited to the information contained on
24 Roundup®'s labeling. The Defendants were able, in accord with federal law, to comply with
25 California law by disclosing the known risks associated with Roundup® through other non-
26 labeling mediums, *i.e.*, promotion, advertisements, public service announcements, and/or public
27 information sources. But the Defendants did not disclose these known risks through any medium.

28 154. To this day, Defendants have failed to adequately and accurately warn of the risks

1 of cancer associated with the use of and exposure to Roundup® and its active ingredient
2 glyphosate.

3 155. As a result of their inadequate warnings, Defendants' Roundup® products were
4 defective and unreasonably dangerous when they left the possession and/or control of Defendants,
5 were distributed by Defendants, and used by Plaintiff.

6 156. Defendants are liable to Plaintiff for injuries caused by their negligent or willful
7 failure, as described above, to provide adequate warnings or other clinically relevant information
8 and data regarding the appropriate use of their products and the risks associated with the use of or
9 exposure to Roundup® and glyphosate.

10 157. Had Defendants provided adequate warnings and instructions and properly
11 disclosed and disseminated the risks associated with their Roundup® products, Plaintiff could
12 have avoided the risk of developing injuries and could have obtained or used alternative
13 herbicides.

14 158. As a direct and proximate result of Defendants placing defective Roundup®
15 products into the stream of commerce, Plaintiff was injured and has sustained pecuniary loss
16 resulting and general damages in a sum exceeding the jurisdictional minimum of this Court.

17 159. As a proximate result of Defendants placing defective Roundup® products into the
18 stream of commerce, as alleged herein, there was a measurable and significant interval of time
19 during which Plaintiff suffered great mental anguish and other personal injury and damages.

20 160. As a proximate result of Defendants placing defective Roundup® products into the
21 stream of commerce, as alleged herein, Plaintiff sustained loss of income, loss of earning capacity
22 and property damage.

23 161. WHEREFORE, Plaintiff respectfully requests this Court to enter judgment in
24 Plaintiff's favor for compensatory and punitive damages, together with interest, costs herein
25 incurred, attorneys' fees and all such other and further relief as this Court deems just and proper.

26 **COUNT III: NEGLIGENCE**

27 162. Plaintiff incorporate by reference each allegation set forth in preceding paragraphs
28 as if fully stated herein.

1 163. Defendants, directly or indirectly, caused Roundup® products to be sold,
2 distributed, packaged, labeled, marketed, promoted, and/or used by Plaintiff. At all relevant times,
3 Defendants registered, researched, manufactured, distributed, marketed, and sold Roundup® and
4 other glyphosate-based formulations within California and aimed at a California consumer and
5 industrial market. The Wilbur-Ellis Defendants were at all relevant times involved in the
6 marketing, distribution, and sale of Roundup® and glyphosate-based formulations marketed and
7 sold in California. Crown Ace Hardware was at relevant times involved in the marketing and sale
8 of Roundup® and glyphosate-based formulations marketed and sold in California to Plaintiff.

9 164. At all relevant times, Defendants had a duty to exercise reasonable care in the
10 design, research, manufacture, marketing, advertisement, supply, promotion, packaging, sale, and
11 distribution of Roundup products, including the duty to take all reasonable steps necessary to
12 manufacture, promote, and/or sell a product that was not unreasonably dangerous to consumers
13 and users of the product.

14 165. At all relevant times, Defendants had a duty to exercise reasonable care in the
15 marketing, advertisement, and sale of the Roundup® products. Defendants' duty of care owed to
16 consumers and the general public included providing accurate, true, and correct information
17 concerning the risks of using Roundup and appropriate, complete, and accurate warnings
18 concerning the potential adverse effects of exposure to Roundup®, and, in particular, its active
19 ingredient glyphosate.

20 166. At all relevant times, Defendants knew or, in the exercise of reasonable care,
21 should have known of the hazards and dangers of Roundup® and, specifically, the carcinogenic
22 properties of the chemical glyphosate.

23 167. Accordingly, at all relevant times, Defendants knew or, in the exercise of
24 reasonable care, should have known that use of or exposure to Roundup® products could cause or
25 be associated with Plaintiff's injuries, and thus, create a dangerous and unreasonable risk of injury
26 to the users of these products, including Plaintiff.

27 168. Defendants also knew or, in the exercise of reasonable care, should have known
28 that users and consumers of Roundup® were unaware of the risks and the magnitude of the risks

1 associated with use of and/or exposure to Roundup® and glyphosate-containing products.

2 169. As such, Defendants breached their duty of reasonable care and failed to exercise
3 ordinary care in the design, research, development, manufacture, testing, marketing, supply,
4 promotion, advertisement, packaging, sale, and distribution of Roundup® products, in that
5 Defendants manufactured and produced defective herbicides containing the chemical glyphosate;
6 knew or had reason to know of the defects inherent in its products; knew or had reason to know
7 that a user's or consumer's exposure to the products created a significant risk of harm and
8 unreasonably dangerous side effects; and failed to prevent or adequately warn of these risks and
9 injuries. Indeed, Defendants deliberately refused to test Roundup® products because they knew
10 that the chemical posed serious health risks to humans.

11 170. Defendants were negligent in their promotion of Roundup®, outside of the labeling
12 context, by failing to disclose material risk information as part of their promotion and marketing of
13 Roundup®, including the Internet, television, print advertisements, etc. Nothing prevented
14 Defendants from being honest in their promotional activities, and, in fact, Defendants had a duty to
15 disclose the truth about the risks associated with Roundup in their promotional efforts, outside of
16 the context of labeling.

17 171. Despite their ability and means to investigate, study, and test the products and to
18 provide adequate warnings, Defendants have failed to do so. Indeed, Defendants have wrongfully
19 concealed information and have further made false and/or misleading statements concerning the
20 safety and/or exposure to Roundup and glyphosate.

21 172. Defendants' negligence included:

- 22 a. Manufacturing, producing, promoting, formulating, creating, developing,
23 designing, selling, and/or distributing Roundup® products without thorough
24 and adequate pre- and post-market testing;
- 25 b. Manufacturing, producing, promoting, formulating, creating, developing,
26 designing, selling, and/or distributing Roundup® while negligently and/or
27 intentionally concealing and failing to disclose the results of trials, tests, and
28 studies of exposure to glyphosate, and, consequently, the risk of serious harm

1 associated with human use of and exposure to Roundup;

- 2 c. Failing to undertake sufficient studies and conduct necessary tests to determine
3 whether or not Roundup® products and glyphosate-containing products were
4 safe for their intended use in agriculture and horticulture;
- 5 d. Failing to use reasonable and prudent care in the design, research, manufacture,
6 and development of Roundup® products so as to avoid the risk of serious harm
7 associated with the prevalent use of Roundup/glyphosate as an herbicide;
- 8 e. Failing to design and manufacture Roundup® products so as to ensure they
9 were at least as safe and effective as other herbicides on the market;
- 10 f. Failing to provide adequate instructions, guidelines, and safety precautions to
11 those persons Defendants could reasonably foresee would use and be exposed
12 to Roundup® products;
- 13 g. Failing to disclose to Plaintiff, users/consumers, and the general public that use
14 of and exposure to Roundup® presented severe risks of cancer and other grave
15 illnesses;
- 16 h. Failing to warn Plaintiff, consumers, and the general public that the product's
17 risk of harm was unreasonable and that there were safer and effective
18 alternative herbicides available to Plaintiff and other consumers;
- 19 i. Systematically suppressing or downplaying contrary evidence about the risks,
20 incidence, and prevalence of the side effects of Roundup® and glyphosate-
21 containing products;
- 22 j. Representing that their Roundup® products were safe for their intended use
23 when, in fact, Defendants knew or should have known the products were not
24 safe for their intended purpose;
- 25 k. Declining to make or propose any changes to Roundup® products' labeling or
26 other promotional materials that would alert consumers and the general public
27 of the risks of Roundup® and glyphosate;
- 28 l. Advertising, marketing, and recommending the use of the Roundup® products,

1 while concealing and failing to disclose or warn of the dangers known (by
2 Defendants) to be associated with or caused by the use of or exposure to
3 Roundup® and glyphosate;

4 m. Continuing to disseminate information to its consumers, which indicate or
5 imply that Defendants' Roundup® products are not unsafe for use in the
6 agricultural and horticultural industries; and

7 n. Continuing the manufacture and sale of their products with the knowledge that
8 the products were unreasonably unsafe and dangerous.

9 169. Defendants knew and/or should have known that it was foreseeable consumers such
10 as Plaintiff would suffer injuries as a result of Defendants' failure to exercise ordinary care in the
11 manufacturing, marketing, labeling, distribution, and sale of Roundup®.

12 170. Plaintiff did not know the nature and extent of the injuries that could result from the
13 intended use of and/or exposure to Roundup® or its active ingredient glyphosate.

14 171. Defendants' negligence was the proximate cause of Plaintiff's injuries, *i.e.*, absent
15 Defendants' negligence, Plaintiff would not have developed cancer.

16 172. Defendants' conduct, as described above, was reckless. Defendants regularly risked
17 the lives of consumers and users of their products, including Plaintiff, with full knowledge of the
18 dangers of their products. Defendants have made conscious decisions not to redesign, re-label,
19 warn, or inform the unsuspecting public, including Plaintiff. Defendants' reckless conduct
20 therefore warrants an award of punitive damages.

21 173. As a direct and proximate result of Defendants placing defective Roundup®
22 products into the stream of commerce, Plaintiff was injured and have sustained pecuniary loss and
23 general damages in a sum exceeding the jurisdictional minimum of this Court.

24 174. As a proximate result of Defendants placing defective Roundup® products into the
25 stream of commerce, as alleged herein, there was a measurable and significant interval of time
26 during which Plaintiff suffered great mental anguish and other personal injury and damages.

27 175. As a proximate result of Defendants placing defective Roundup® products into the
28 stream of commerce, as alleged herein, Plaintiff sustained a loss of income, loss of earning

1 capacity and property damage.

2 176. WHEREFORE, Plaintiff respectfully request this Court to enter judgment in
3 Plaintiff's favor for compensatory and punitive damages, together with interest, costs herein
4 incurred, attorneys' fees and all such other and further relief as this Court deems just and proper.

5 **COUNT IV: FRAUD**

6 **(MONSANTO)**

7 177. Plaintiff incorporates by reference each allegation set forth in preceding paragraphs
8 as if fully stated herein.

9 178. Defendant Monsanto has defrauded the agricultural community in general and
10 Plaintiff in particular by misrepresenting the true safety of its Roundup® and by failing to disclose
11 known risks of cancer.

12 179. Defendant Monsanto misrepresented and/or failed to disclose, *inter alia*, that:
13 glyphosate and its major metabolite aminomethylphosphonic acid (AMPA) could cause cancer;
14 glyphosate and AMPA are known to be genotoxic in humans and laboratory animals because
15 exposure is known to cause DNA strand breaks (a precursor to cancer); glyphosate and AMPA are
16 known to induce oxidative stress in humans and laboratory animals (a precursor to cancer);
17 glyphosate and AMPA interfere with the aromatic amino acids within the human gut, leading to
18 downstream health conditions including cancer; exposure to glyphosate and AMPA is causally
19 associated with non-Hodgkin lymphoma; and the laboratory tests attesting to the safety of
20 glyphosate were flawed and/or fraudulent.

21 180. Due to these misrepresentations and omissions, at all times relevant to this
22 litigation, Defendant's Roundup® was misbranded under 7 U.S.C. § 136(g) and its distribution
23 within California and around the United States was a violation of 7 U.S.C. § 136j and 40 C.F.R. §
24 156.10(a)(5).

25 181. Plaintiff relied on the Defendant's misrepresentations and/or material omissions
26 regarding the safety of Roundup® and its active ingredient glyphosate in deciding whether to
27 purchase and/or use the product. Plaintiff did not know nor could Plaintiff have reasonably known
28 of the misrepresentations and/or material omissions by Defendant concerning Roundup® and its

1 active ingredient glyphosate.

2 182. The misrepresentations and/or material omissions that form the basis of this fraud
3 claim are not limited to statements made on the Roundup® labeling, as defined under federal law,
4 but also involve Defendant Monsanto's representations and omissions made as part of its
5 promotion and marketing of Roundup®, including on the Internet, television, in print
6 advertisements, etc. Nothing prevented Defendant Monsanto from disclosing the truth about the
7 risks associated with Roundup® in its promotional efforts outside of the labeling context, using
8 the forms of media and promotion Defendant Monsanto traditionally used to promote the
9 product's efficacy and benefits.

10 183. When Defendant Monsanto made the misrepresentations and/or omissions as
11 alleged in this pleading, it did so with the intent of defrauding and deceiving the public in general
12 and the agricultural community and with the intent of inducing the public and agricultural
13 community to purchase and use Roundup®.

14 184. Defendant Monsanto made these misrepresentations and/or material omissions with
15 malicious, fraudulent and/or oppressive intent toward Plaintiff and the public generally.
16 Defendant's conduct was willful, wanton, and/or reckless. Defendant deliberately recommended,
17 manufactured, produced, marketed, sold, distributed, merchandized, packaged, promoted and
18 advertised the dangerous and defective herbicide Roundup®. This constitutes an utter, wanton,
19 and conscious disregard of the rights and safety of a large segment of the public, and by reason
20 thereof, Defendant is liable for reckless, willful, and wanton acts and omissions which evidence a
21 total and conscious disregard for the safety of Plaintiff and others which proximately caused the
22 injuries as set forth herein.

23 185. As a proximate result of Defendant Monsanto's fraudulent and deceitful conduct
24 and representations, Plaintiff has sustained damages and other losses in an amount to be proven at
25 trial.

26 186. As a proximate result of Defendant Monsanto's fraud, as alleged herein, Plaintiff
27 sustained a loss of income, loss of earning capacity, and property damage, including lost income.

28 187. WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in

1 Plaintiff's favor for compensatory and punitive damages, together with interest, costs herein
2 incurred, attorneys' fees and all such other and further relief as this Court deems just and proper.

3 **COUNT V: BREACH OF EXPRESS WARRANTIES**

4 **(MONSANTO)**

5 188. Plaintiff incorporates by reference each allegation set forth in preceding paragraphs
6 as if fully stated herein.

7 189. At all relevant times, Defendant Monsanto engaged in the business of testing,
8 developing, designing, manufacturing, marketing, selling, distributing, and promoting Roundup®
9 products, which are defective and unreasonably dangerous to consumers, including Plaintiff,
10 thereby placing Roundup® products into the stream of commerce. These actions were under the
11 ultimate control and supervision of Defendant Monsanto.

12 190. Defendant Monsanto had a duty to exercise reasonable care in the research,
13 development, design, testing, packaging, manufacture, inspection, labeling, distributing,
14 marketing, promotion, sale, and release of Roundup® products, including a duty to:

- 15 a. ensure that its products did not cause the user unreasonably dangerous side
16 effects;
- 17 b. warn of dangerous and potentially fatal side effects; and
- 18 c. disclose adverse material facts, such as the true risks associated with the use of
19 and exposure to Roundup® and glyphosate-containing products, when making
20 representations to consumers and the general public, including Plaintiff.

21 191. As alleged throughout this pleading, the ability of Defendant Monsanto to properly
22 disclose those risks associated with Roundup® is not limited to representations made on the
23 labeling.

24 192. At all relevant times, Defendant Monsanto expressly represented and warranted to
25 the purchasers of its products, by and through statements made by Defendant Monsanto in labels,
26 publications, package inserts, and other written materials intended for consumers and the general
27 public, that Roundup® products were safe to human health and the environment, effective, fit, and
28 proper for their intended use. Defendant Monsanto advertised, labeled, marketed, and promoted

1 Roundup® products, representing the quality to consumers and the public in such a way as to
2 induce their purchase or use, thereby making an express warranty that Roundup® products would
3 conform to the representations.

4 193. These express representations include incomplete warnings and instructions that
5 purport, but fail, to include the complete array of risks associated with use of and/or exposure to
6 Roundup® and glyphosate. Defendant Monsanto knew and/or should have known that the risks
7 expressly included in Roundup® warnings and labels did not and do not accurately or adequately
8 set forth the risks of developing the serious injuries complained of herein. Nevertheless, Defendant
9 Monsanto expressly represented that Roundup® products were safe and effective, that they were
10 safe and effective for use by individuals such as the Plaintiff, and/or that they were safe and
11 effective as agricultural herbicides.

12 194. The representations about Roundup®, as set forth herein, contained or constituted
13 affirmations of fact or promises made by the seller to the buyer, which related to the goods and
14 became part of the basis of the bargain, creating an express warranty that the goods would conform
15 to the representations.

16 195. Defendant Monsanto placed Roundup® products into the stream of commerce for
17 sale and recommended their use to consumers and the public without adequately warning of the
18 true risks of developing the injuries associated with the use of and exposure to Roundup® and its
19 active ingredient glyphosate.

20 196. Defendant Monsanto breached these warranties because, among other things,
21 Roundup® products were defective, dangerous, and unfit for use, did not contain labels
22 representing the true and adequate nature of the risks associated with their use, and were not
23 merchantable or safe for their intended, ordinary, and foreseeable use and purpose. Specifically,
24 Defendant Monsanto breached the warranties in the following ways:

- 25 a. Defendant Monsanto represented through its labeling, advertising, and marketing
26 materials that Roundup® products were safe, and fraudulently withheld and concealed
27 information about the risks of serious injury associated with use of and/or exposure to
28 Roundup® and glyphosate by expressly limiting the risks associated with use and/or

1 exposure within its warnings and labels; and

2 b. Defendant Monsanto represented that Roundup® products were safe for use and
3 fraudulently concealed information that demonstrated that glyphosate, the active ingredient
4 in Roundup®, had carcinogenic properties, and that Roundup® products, therefore, were
5 not safer than alternatives available on the market.

6 197. Plaintiff detrimentally relied on the express warranties and representations of
7 Defendant Monsanto concerning the safety and/or risk profile of Roundup® in making a decision to
8 purchase the product. Plaintiff reasonably relied upon Defendant Monsanto to disclose known
9 defects, risks, dangers, and side effects of Roundup® and glyphosate. Plaintiff would not have
10 purchased or used Roundup® had Defendant Monsanto properly disclosed the risks associated with
11 the product, either through advertising, labeling, or any other form of disclosure.

12 198. Defendant Monsanto had sole access to material facts concerning the nature of the
13 risks associated with its Roundup® products, as expressly stated within their warnings and labels,
14 and knew that consumers and users such as Plaintiff could not have reasonably discovered that the
15 risks expressly included in Roundup® warnings and labels were inadequate and inaccurate.

16 199. Plaintiff had no knowledge of the falsity or incompleteness of Defendant
17 Monsanto's statements and representations concerning Roundup.

18 200. Plaintiff used and/or was exposed to Roundup® as researched, developed,
19 designed, tested, manufactured, inspected, labeled, distributed, packaged, marketed, promoted,
20 sold, or otherwise released into the stream of commerce by Defendant Monsanto.

21 201. Had the warnings, labels, advertisements, or promotional material for Roundup®
22 products accurately and adequately set forth the true risks associated with the use of such products,
23 including Plaintiff's injuries, rather than expressly excluding such information and warranting that
24 the products were safe for their intended use, Plaintiff could have avoided the injuries complained
25 of herein.

26 202. As a direct and proximate result of Defendant Monsanto's breach of express
27 warranty, Plaintiff has sustained pecuniary loss and general damages in a sum exceeding the
28 jurisdictional minimum of this Court.

1 203. As a proximate result of Defendant Monsanto's breach of express warranty, as
2 alleged herein, there was a measurable and significant interval of time during which Plaintiff
3 suffered great mental anguish and other personal injury and damages.

4 204. As a proximate result of Defendant Monsanto's breach of express warranty, as
5 alleged herein, Plaintiff sustained a loss of income, loss of earning capacity, and property damage.

6 205. WHEREFORE, Plaintiff respectfully requests this Court to enter judgment in
7 Plaintiff's favor for compensatory and punitive damages, together with interest, costs herein
8 incurred, attorneys' fees, and all such other and further relief as this Court deems just and proper.

9 **COUNT VI: BREACH OF IMPLIED WARRANTIES**

10 **(MONSANTO)**

11 206. Plaintiff incorporates by reference every allegation set forth in preceding
12 paragraphs as if fully stated herein.

13 207. At all relevant times, Defendant Monsanto engaged in the business of testing,
14 developing, designing, manufacturing, marketing, selling, distributing, and promoting Roundup®
15 products, which were and are defective and unreasonably dangerous to consumers, including
16 Plaintiff, thereby placing Roundup® products into the stream of commerce.

17 208. Before the time Plaintiff was exposed to the aforementioned Roundup® products,
18 Defendant Monsanto impliedly warranted to its consumers, including Plaintiff, that Roundup®
19 products were of merchantable quality and safe and fit for the use for which they were intended;
20 specifically, as agricultural herbicides.

21 209. But Defendant Monsanto failed to disclose that Roundup® has dangerous
22 propensities when used as intended and that use of and/or exposure to Roundup® and glyphosate-
23 containing products carries an increased risk of developing severe injuries, including Plaintiff's
24 injuries.

25 210. Plaintiff was an intended beneficiary of the implied warranties made by Defendant
26 Monsanto to purchasers of its herbicides.

27 211. The Roundup® products were expected to reach and did in fact reach consumers
28 and users, including Plaintiff, without substantial change in the condition in which they were

1 manufactured and sold by Defendant Monsanto.

2 212. At all relevant times, Defendant Monsanto was aware that consumers and users of
3 its products, including Plaintiff, would use Roundup® products as marketed by Defendant
4 Monsanto, which is to say that Plaintiff was a foreseeable user of Roundup®.

5 213. Defendant Monsanto intended that Roundup® products be used in the manner in
6 which Plaintiff, in fact, used them and which Defendant Monsanto impliedly warranted to be of
7 merchantable quality, safe, and fit for this use, despite the fact that Roundup® was not adequately
8 tested or researched.

9 214. In reliance upon Defendant Monsanto's implied warranty, Plaintiff used Roundup®
10 as instructed and labeled and in the foreseeable manner intended, recommended, promoted, and
11 marketed by Defendant Monsanto.

12 215. Plaintiff could not have reasonably discovered or known of the risks of serious
13 injury associated with Roundup® or glyphosate.

14 216. Defendant Monsanto breached its implied warranty to Plaintiff in that Roundup®
15 products were not of merchantable quality, safe, or fit for their intended use, or adequately tested.
16 Roundup® has dangerous propensities when used as intended and can cause serious injuries,
17 including those injuries complained of herein.

18 217. The harm caused by Defendant's Roundup® products far outweighed their benefit,
19 rendering the products more dangerous than an ordinary consumer or user would expect and more
20 dangerous than alternative products.

21 218. As a direct and proximate result of Defendant's breach of implied warranty,
22 Plaintiff has sustained pecuniary loss and general damages in a sum exceeding the jurisdictional
23 minimum of this Court.

24 219. As a proximate result of the Defendant's breach of implied warranty, as alleged
25 herein, there was a measurable and significant interval of time during which Plaintiff suffered
26 great mental anguish and other personal injury and damages.

27 220. As a proximate result of Defendant's breach of implied warranty, as alleged herein,
28 Plaintiff sustained a loss of income, loss of earning capacity, and property damage.

1 221. WHEREFORE, Plaintiff respectfully requests this Court to enter judgment in
2 Plaintiff's favor for compensatory and punitive damages, together with interest, costs herein
3 incurred, attorneys' fees, and all such other and further relief as this Court deems just and proper.

4 **EXEMPLARY DAMAGES ALLEGATIONS**

5 222. Plaintiff incorporates by reference each allegation set forth in preceding paragraphs
6 as if fully stated herein.

7 223. Defendants' conduct as alleged herein was done with oppression, fraud, and malice.
8 Defendants were fully aware of the safety risks of Roundup®. Nonetheless, Defendants
9 deliberately crafted their label, marketing, and promotion to mislead farmers and consumers.

10 224. This was not done by accident or through some justifiable negligence. Rather,
11 Defendants knew that it could turn a profit by convincing the agricultural industry that Roundup
12 was harmless to humans, and that full disclosure of the true risks of Roundup® would limit the
13 amount of money Defendants would make selling Roundup® in California. Defendants' objection
14 was accomplished not only through its misleading labeling, but through a comprehensive scheme of
15 selective fraudulent research and testing, misleading advertising, and deceptive omissions as more
16 fully alleged throughout this pleading. Plaintiff was denied the right to make an informed decision
17 about whether to purchase, use, or be exposed to an herbicide, knowing the full risks attendant to
18 that use. Such conduct was done with conscious disregard of Plaintiff's rights.

19 225. There is no indication that Defendants will stop their deceptive and unlawful
20 marketing practices unless they are punished and deterred. Accordingly, Plaintiff requests punitive
21 damages against the Defendants for the harms caused to Plaintiff.

22 **JURY TRIAL DEMAND**

23 226. Plaintiff demands a trial by jury on all of the triable issues within this pleading.

24 **PRAYER FOR RELIEF**

25 227. WHEREFORE, Plaintiff requests the Court to enter judgment in Plaintiff's favor
26 and against the Defendants for:

27 a. actual or compensatory damages in such amount to be determined at trial and as
28 provided by applicable law;

- 1 b. exemplary and punitive damages sufficient to punish and deter the Defendants and
2 others from future fraudulent practices;
3 c. pre-judgment and post-judgment interest;
4 d. costs including reasonable attorneys' fees, court costs, and other litigation
5 expenses; and
6 e. any other relief the Court may deem just and proper.

7 Dated: July 31, 2020

GIBBS LAW GROUP LLP

8
9
10 By: 
11 Karen Barth Merzies
12 GIBBS LAW GROUP LLP
13 505 14th Street, Suite 1110
14 Oakland, CA 94612
15 Tel: (510) 350-9700
16 Fax: (510) 350-9701
17 kbm@classlawgroup.com

18 Fletcher V. Trammell
19 (*pro hac vice* to be submitted)
20 Melissa Binstock Ephron
21 (*pro hac vice* to be submitted)
22 TRAMMELL, PC
23 3262 Westheimer Rd., Ste. 423
24 Houston, TX 77098
25 Tel: (800) 405-1740
26 Fax: (800) 532-0992
27 fletch@trammellpc.com
28 melissa@trammellpc.com

Alexander G. Dwyer
(*pro hac vice* to be submitted)
Andrew F. Kirkendall
(*pro hac vice* to be submitted)
Erin M. Wood
(*pro hac vice* to be submitted)
KIRKENDALL DWYER LLP
4343 Sigma Rd, Suite 200
Dallas, TX 75244
Tel: 214-271-4027
Fax: 214-253-0629
ad@kirkendalldwyer.com
ak@kirkendalldwyer.com

ewood@kirkendalldwyer.com

Attorneys for Plaintiff

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address):
Karen Barth Menzies (CA SBN 180234)
GIBBS LAW GROUP LLP
505 14th Street, Suite 1110, Oakland CA 94612
TELEPHONE NO.: (510) 350-9700 FAX NO. (Optional): (510) 350-9701
ATTORNEY FOR (Name): Plaintiff, Donnetta Stephens

FOR COURT USE ONLY
FILED
Superior Court of California
County of San Francisco
AUG 04 2020
CLERK OF THE COURT
BY: ANGELICA SUNGA Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO
STREET ADDRESS: 400 McAllister Street
MAILING ADDRESS: same
CITY AND ZIP CODE: San Francisco, CA 94102
BRANCH NAME: Civic Center Courthouse

CASE NAME:
Donnetta Stephens v. MONSANTO COMPANY, et al.

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000) **Limited** (Amount demanded is \$25,000)
Complex Case Designation
 Counter Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:
CGC-20-585764

JUDGE:
DEPT.:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

- | | | |
|---|--|--|
| <p>Auto Tort</p> <input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured motorist (46)
<p>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</p> <input type="checkbox"/> Asbestos (04)
<input checked="" type="checkbox"/> Product liability (24)
<input type="checkbox"/> Medical malpractice (45)
<input type="checkbox"/> Other PI/PD/WD (23)
<p>Non-PI/PD/WD (Other) Tort</p> <input type="checkbox"/> Business tort/unfair business practice (07)
<input type="checkbox"/> Civil rights (08)
<input type="checkbox"/> Defamation (13)
<input type="checkbox"/> Fraud (16)
<input type="checkbox"/> Intellectual property (19)
<input type="checkbox"/> Professional negligence (25)
<input type="checkbox"/> Other non-PI/PD/WD tort (35)
<p>Employment</p> <input type="checkbox"/> Wrongful termination (36)
<input type="checkbox"/> Other employment (15) | <p>Contract</p> <input type="checkbox"/> Breach of contract/warranty (06)
<input type="checkbox"/> Rule 3.740 collections (09)
<input type="checkbox"/> Other collections (09)
<input type="checkbox"/> Insurance coverage (18)
<input type="checkbox"/> Other contract (37)
<p>Real Property</p> <input type="checkbox"/> Eminent domain/Inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (26)
<p>Unlawful Detainer</p> <input type="checkbox"/> Commercial (31)
<input type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38)
<p>Judicial Review</p> <input type="checkbox"/> Asset forfeiture (05)
<input type="checkbox"/> Petition re: arbitration award (11)
<input type="checkbox"/> Writ of mandate (02)
<input type="checkbox"/> Other judicial review (39) | <p>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</p> <input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Construction defect (10)
<input type="checkbox"/> Mass tort (40)
<input type="checkbox"/> Securities litigation (28)
<input type="checkbox"/> Environmental/Toxic tort (30)
<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
<p>Enforcement of Judgment</p> <input type="checkbox"/> Enforcement of judgment (20)
<p>Miscellaneous Civil Complaint</p> <input type="checkbox"/> RICO (27)
<input type="checkbox"/> Other complaint (not specified above) (42)
<p>Miscellaneous Civil Petition</p> <input type="checkbox"/> Partnership and corporate governance (21)
<input type="checkbox"/> Other petition (not specified above) (43) |
|---|--|--|

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): 7 (Seven)

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: July 31, 2020

Karen Barth Menzies

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.