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## Group To Revise Deal For Future Claims In Monsanto MDL

By **Mike Curley**

Law360 (July 8, 2020, 4:42 PM EDT) -- A group of plaintiffs suing Monsanto Co. with allegations that its Roundup weedkiller causes cancer withdrew their bid for approval of a settlement on Wednesday, days after a California federal judge said he was skeptical that the deal was fair.

The named plaintiffs in the case, led by Robert Ramirez, had reached a \$1.25 billion deal with Monsanto, which sought to resolve current and future claims from proposed class members who had been diagnosed with cancer allegedly linked to the weedkiller or who hadn't been diagnosed yet.

Attorneys at Lief Cabraser Heimann & Bernstein LLP, which represents Ramirez, told Law360 on Wednesday that they withdrew the motion in response to U.S. District Judge Vince Chhabria's **order on Monday** expressing skepticism about whether it is appropriate to handle claims in this manner.

The attorneys said withdrawing the motion allows them to revise the settlement agreement and address Judge Chhabria's concerns.

"We remain strongly committed to a fair and just resolution that serves the needs and interests of persons exposed to Roundup who are not otherwise included in the negotiations for the comprehensive resolution of the thousands of individual cases, in support of a settlement for all," Elizabeth Cabraser of Lief Cabraser told Law360.

Bayer, which bought Monsanto in 2018, confirmed on Wednesday that Monsanto agreed with the move to withdraw the motion, saying Bayer is "strongly committed" to finding a resolution to both current litigation and potential future litigation.

"Mass tort settlement agreements like this are complex and may require some adjustments along the way, but the company continues to believe that a settlement on appropriate terms is in the best interest of Bayer and all of its stakeholders," Bayer said in a statement.

The Ramirez settlement was part of a **\$10 billion settlement** announced last month that sought to resolve the bulk of roughly 125,000 claims in the sprawling MDL over whether Roundup causes non-Hodgkin's lymphoma, a form of cancer.

The Ramirez settlement, however, drew objections from other plaintiffs in the case over the proposition that future claims would be bound by the settlement's terms, and asked Judge Chhabria to delay a hearing on the deal to give them more time to prepare briefs.

While Judge Chhabria denied the motion to reschedule the hearing, he agreed that there were issues with the proposal, saying he was unsure of its constitutionality as it would have a panel of scientists decide whether the weedkiller causes cancer, rather than judges and juries.

"By withdrawing the motion seeking class certification, proposed class counsel recognized the legal infirmities the proposed class suffered," Hunter J. Shkolnik of Napoli Shkolnik PLLC, representing the plaintiffs opposed to the Ramirez deal, told Law360 on Wednesday. "Now maybe Monsanto will properly compensate the victims of Roundup."

Ramirez is represented by Robert L. Lieff, Elizabeth J. Cabraser, Kevin R. Budner, Steven E. Fineman, Wendy R. Fleishman, Rhea Ghosh and Andrew R. Kaufman of Lieff Cabraser Heimann & Bernstein LLP, James R. Dugan II, TerriAnne Benedetto and David S. Scalia of The Dugan Law Firm LLC, William M. Audet and Ling Y. Kuang of Audet & Partners LLP and Samuel Issacharoff.

Monsanto is represented in the MDL by Joe G. Hollingsworth and Eric G. Lasker of Hollingsworth LLP.

The opposing plaintiffs are represented by Paul J. Napoli, Hunter J. Shkolnik and Christopher L. Schnieders of Napoli Shkolnik PLLC and Thomas C. Goldstein, Eric F. Citron and Daniel Woofter of Goldstein & Russell PC.

The MDL is In re: Roundup Products Liability Litigation, case number 3:16-md-02741, and the case is Ramirez et al. v. Monsanto Co., case number 3:19-cv-02224, both in the U.S. District Court for the Northern District of California.

--Additional reporting by Daniel Siegal and Cara Bayles. Editing by Brian Baresch.

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