

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

JOSHUA RAWA, ELISABETH MARTIN, ROBERT RAVENCAMP, AMY WARD, CYNTHIA DAVIES, CHRISTOPHER ABBOTT, OWEN OLSON, JEANNIE A. GILCHRIST, ZACHARY SHOLAR, MATTHEW MYERS, JOHN W. BEARD, JR., and MICHAEL OVERSTREET on behalf of themselves, all others similarly situated, and the general public,

Plaintiffs,

v.

MONSANTO COMPANY,

Defendant.

Case No: 4:17-cv-01252-AGF

**DECLARATION OF KIMBERLY K. NESS  
WITH RESPECT TO ADMINISTRATION  
ACTIVITIES**

I, Kimberly K. Ness, hereby declare as follows:

1. I am over 21 years of age and am not a party to this action.
2. This declaration is based on my personal knowledge, information provided by the staff of Dahl Administration, LLC (“Dahl”), and information provided by Dahl’s media partners. If called as a witness, I could and would testify competently to the facts stated herein.
3. I am a Principal of Dahl, which has been retained as the Claims Administrator for the above-captioned action. I have experience in all areas of class action administration including class notification, claims processing and funds distribution.
4. Dahl has been selected as Claims Administrator to fulfill the administration activities pursuant to the Rawa v Monsanto Settlement Agreement, Order Granting Preliminary Approval of Class Action Settlement entered on December 6, 2017.
5. I submit this Declaration to establish that Dahl has performed all of the Claims Administration activities required by the Preliminary Approval Order and the Settlement Agreement.
6. This Declaration describes: (a) implementation of mail and e-mail Notice Plan; (b) implementation of a toll-free telephone helpline; (c) other communications with potential Settlement Class Members related to the settlement; (d) an accounting of claims received; and (e) exclusion requests related to the settlement.

### **NOTICE**

7. Beginning on January 5, 2018, Dahl mailed 65,782 and e-mailed 57,498 initial Notices to potential Class Members. On January 22, 2018 Dahl mailed 14,147 Notices to potential Class Members for which the e-mail Notice was returned as undeliverable. Potential Class Members were directed to the settlement website and the toll-free number for detailed information on the Settlement. Dahl sent an additional 132 Notices and Claim Forms at the request of potential Class Members.

### **SETTLEMENT WEBSITE**

8. Dahl established a settlement website at [www.RoundupConcentrateSettlement.com](http://www.RoundupConcentrateSettlement.com) (“Settlement Website”). The Settlement Website was activated on December 20, 2017, and is still operating. Dahl developed the content for the Settlement Website based upon the Court-approved Long Form Notice and Claim Form. The [www.RoundupConcentrateSettlement.com](http://www.RoundupConcentrateSettlement.com) website address was included on the Postcard Notice, E-mail Notice, and Long Form Notice, and was the hyperlinked destination website address for all of the digital forms of notice. A screen capture of the Settlement Website homepage is attached as Exhibit A.

9. The Settlement Website provides settlement Class Members with general settlement information; a list of important dates and deadlines; a list of Frequently Asked Questions and Responses; an online Claim Form as well as a downloadable Claim Form; downloadable versions of settlement documents, including the Settlement Agreement, Motion for Preliminary Approval, Memorandum in Support for Preliminary Approval, Supplement to Motion for Preliminary Approval, Second Supplement in Support of Motion for Preliminary Approval, Order Granting Preliminary Approval, Declaration of Mark A. Fellows, Declaration of Jack Fitzgerald, Declaration of Hon James F. Holderman, and Proposed Order; Postcard Notice; Long Form Notice; Appendix 1 – Statute of Limitations by State, Opt-Out Form; information on how to contact the Settlement Administrator via email, U.S. Mail, or phone; and information on how to contact Class Counsel by U.S. Mail or phone.

10. As of March 11, 2018, the Settlement Website has received 182,574 visits.

### **SETTLEMENT INFORMATION LINE**

11. On December 20, 2017, Dahl established an automated toll-free settlement information line (1-855-802-5279) to assist potential settlement Class Members seeking information about the settlement. The toll-free number was printed in the Postcard Notice, E-mail Notice, Long Form Notice and Claim Form, and is displayed on the Settlement Website. The helpline is fully automated and operates 24 hours per day, seven days per week. The helpline is still operating.

12. The toll-free telephone system includes a voice response system that allows callers to listen to general information about the settlement and listen to responses to frequently asked questions (FAQ's), including directions on how to obtain a Long Form Notice and Claim Form. As of March 11, 2018 the settlement information line has received 561 telephone calls.

### **OTHER COMMUNICATIONS**

13. As of March 11, 2018, Dahl has received, and responded to when appropriate, 4,649 emails and 55 pieces of written correspondence related to this settlement.

### **CLAIMS RECEIVED**

14. The deadline for potential class members to file a claim in this settlement was March 6, 2018. As of March 11, 2018, Dahl has received a total of 93,702 claims, valued at \$27,416,595. The quantity of claims is subject to change as additional timely-postmarked claims are received. Following is a summary for all claims received.

#### **Claims as Filed**

<b>Roundup® Product</b>	<b>Per-Unit Payment</b>	<b>Total Products Claimed</b>	<b>Value of Claims</b>
Super Concentrate 35.2 oz.	\$21.00	46,978	\$986,538.00
Super Concentrate 53.7 oz. (0.42 gal.)	\$31.00	44,957	\$1,393,667.00
Super Concentrate 64 oz. (1/2 gal.)	\$36.00	74,862	\$2,695,032.00
Super Concentrate 128 oz. (1 gal.)	\$53.00	363,894	\$19,286,382.00
Concentrate Plus 32 oz. (1 qt.)	\$11.00	110,668	\$1,217,348.00
Concentrate Plus 36.8 oz.	\$11.50	29,974	\$344,701.00
Concentrate Plus 40 oz.	\$3.00	23,527	\$305,851.00
Concentrate Plus 64 oz. (1/2 gal.)	\$22.00	53,958	\$1,187,076.00
<b>Totals:</b>		<b>748,818</b>	<b>\$27,416,595.00</b>

15. It is not uncommon for fraudulent claims to be made on a settlement of this nature given that this settlement involves a retail product with a prominent household name, and the amount of payment available to claimants with respect to larger packages covered under the settlement. It is our standard practice to not only evaluate claims to ensure they are consistent with the terms of the proposed settlement, but also to review and invalidate potentially fraudulent claims. Upon review of the claims data received to date, counsel for parties and Dahl identified a substantial number of potentially fraudulent claims, especially for the most expensive bottle, 128 oz. Super Concentrate, valued at \$53. The number of claims for those bottles represented a much greater percentage of the bottles than were actually sold during the claims period. Dahl has applied a variety of validation methods to validate claims, as well as to detect fraud, including by

checking for multiple claims from the same physical or IP address (in one case, 133 claims from the same IP address, amounting to \$140,299, for example), limiting the total number of products claimed per household to 20 (such as one claim for 182 bottles, and another for 146 bottles), and disallowing purchases claimed outside of the Statute of Limitations begin date by state. Dahl has also performed initial validation based on information provided by the parties identifying the availability of the products by retailer and state.

16. As of March 11, 2018, Dahl has validated approximately \$5.3 million of the submitted claims. As of March 11, 2018, these efforts had also identified 16,382 fraudulent/invalid claims, valued at \$8,650,549.

17. Regarding the claims that have not yet been invalidated as fraudulent or accepted as valid, Dahl has applied and is continuing to apply additional methods for detecting fraud, including validation based on information provided by the parties, such as regarding reasonable limits of use.

18. Dahl anticipates that when claims processing is finished, there will be sufficient funds in the Common Fund to pay all Approved Claims. Dahl does not believe that a *pro rata* reduction of Approved Claims will be necessary.

19. I anticipate submitting, as quickly as reasonably possible, a supplemental declaration to provide updated numbers.

#### **REQUESTS FOR EXCLUSION**

20. The deadline for potential class members to request to be excluded from this settlement was March 6, 2018. Through March 11, 2018, Dahl has received 10 valid, and zero invalid, exclusion requests.

21. The quantity of valid exclusion requests is subject to change as additional timely-postmarked requests are received.

#### **CLAIMS ADMINISTRATION EXPENSES**

22. As of March 1, 2018, Dahl has incurred an estimated \$612,017.70 in notice and administration costs. Dahl estimates that total estimated administration costs will not exceed \$1.3 million.

I affirm under penalty of perjury, that the foregoing is true and correct to the best of my knowledge. Executed this 13<sup>th</sup> day of March, 2018 in Minneapolis, Minnesota.



Kimberly K. Ness  
Principal  
Dahl Administration, LLC

Exhibit A

ROUNDUP CONCENTRATE SETTLEMENT

Joshua Rawa, et al. v. Monsanto Company  
United States District Court, Eastern District of Missouri Case No. 4:17-cv-01252-AGF

Home

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Important Dates

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Frequently Asked Questions

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Settlement Documents

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File a Claim


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Contact Information

## Welcome to the Roundup Concentrate Settlement Website

A Settlement resolves a class action lawsuit pending in the United States District Court for the Eastern District of Missouri (the "Court") against Monsanto Company, the manufacturer of Roundup® Weed & Grass Killer Concentrate Plus or Roundup® Weed & Grass Killer Super Concentrate. The lawsuit alleges that Monsanto advertised these Roundup® products as making more spray solution than the products were capable of making. Monsanto denies these allegations and any wrongdoing. The two sides disagree on what relief, and how much, could have been won, if any, if the Class won at trial. The Settlement avoids costs and risks to you from continuing the lawsuit, provides relief to affected persons like you, and releases Monsanto and others from liability for the related claims.

PROCESSED BY





If you purchased any of the above two Roundup® Concentrate products in the sizes listed below, for your own personal or household use, you may be a member of the settling Class. You have the right to know about the proposed Settlement and about all of your options before the Court decides whether to approve the Settlement.

The proposed class action Settlement will provide the Class with \$21,500,000 (twenty-one million, five hundred thousand dollars) of monetary relief to pay all aspects of Settlement (the "Common Fund"), including Class Member claims, Notice, administration, Plaintiffs incentive awards, legal expenses, and attorneys' fees.

Class Members will be able to make claims for refunds for the Roundup® Concentrates listed below equivalent to approximately one-half (50%) of their weighted average retail price (after rounding) during the relevant Class Period. Claims are limited to 20 units per household. If claims exceed the amount left in the Common Fund after all other expenses are deducted, the amount refunded will be reduced pro rata. If funds remain in the Common Fund after all claims and expenses, any remaining amounts will be donated cy pres to one or more Court-approved organizations. A list of potential cy pres recipients can be found [HERE](#). The specific refund amounts are as follows:

Roundup® Product	Weighted Average Retail Price	Per-Unit Payment
Super Concentrate 35.2 oz.	\$42.48	\$21
Super Concentrate 53.7 oz. (0.42 gal.)	\$62.88	\$31
Super Concentrate 64 oz. (1/2 gal.)	\$72.64	\$36
Super Concentrate 128 oz. (1 gal.)	\$105.85	\$53
Concentrate Plus 32 oz. (1 qt.)	\$21.31	\$11
Concentrate Plus 36.8 oz.	\$22.97	\$11.50
Concentrate Plus 40 oz.	\$26.40	\$13
Concentrate Plus 64 oz. (1/2 gal.)	\$44.54	\$22

To learn more about the terms of the proposed settlement, your options, and how your legal rights may be affected, please review the [Detailed Notice](#), [Settlement Documents](#) and answers to the [Frequently Asked Questions](#) provided on this website.