

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

RANDALL KING, SCOTT BUTTERFIELD,  
ROBERT KOEHLER, MICHAEL MERX,  
and BRUCE WALDMAN,

Plaintiffs,

v.

MONSANTO COMPANY,

Defendant,

ALAN YOUNGKRANTZ, LISA OAKLEY,  
DONALD HARRYMAN, DONALD  
JUSTUS, FREDRICK COOK, by and through  
their representative KATHRYN COOK, and  
KATHRYN COOK, on behalf of all living  
heirs of FREDRICK COOK,

Proposed Intervenors.

Case No. 2622-CC00325

Division: 8

**PUTATIVE CLASS MEMBERS' MOTION TO INTERVENE  
AND SUGGESTIONS IN SUPPORT**

Come now five members of the proposed class, Alan Youngkrantz, Lisa Oakley, Donald Harryman, Donald Justus, and Kathryn Cook, as personal representative of the Estate of Fredrick Cook and on behalf of all living heirs of Fredrick Cook (“Proposed Intervenors,” or “Intervenors”) and respectfully move to intervene in this action as of right or, in the alternative, permissively. Intervenors are represented by 14 law firms who, collectively, represent nearly 20,000 Roundup claimants (and putative class members) in this Court and in courts across the country. Intervention is necessary to (1) protect the rights of persons not adequately represented by the plaintiffs and putative class counsel, (2) protect the putative class’s due process right to review, notice, and an

opportunity to be heard regarding the proposed settlement before preliminary approval, and (3) prevent delay and confusion.

### **INTRODUCTION & SUMMARY OF SUGGESTIONS**

On February 17, 2026, five named plaintiffs filed a putative class action in this Court simultaneously with a motion for preliminary approval of a proposed settlement. The proposed class definition and release of liability both appear to be breathtakingly broad.<sup>1</sup> What’s more, a first read suggests that the proposed settlement may present conflicts among class members and related adequacy problems as to both named plaintiffs and their lawyers. Further, the putative class petition, motion for preliminary approval, and accompanying exhibits (all filed on February 17) weigh in at 600 pages. Monsanto and their putative class counsel have asked the Court to preliminarily approve the proposed settlement within 15 days of filing,<sup>2</sup> and would not agree to a request from undersigned counsel for more time. This motion followed. The Court should permit intervention for at least three reasons, all of which entitle Intervenor to intervene in this case as of right.

*First*, Intervenor and their lawyers have an interest in being able to understand, and to be heard, on this highly complex, 600-page settlement proposal at the preliminary approval stage. That interest is particularly acute in this case because the “absent” class members are not really absent at all: they are represented by counsel and actively litigating their claims against Monsanto

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<sup>1</sup> See Class Action Petition (filed Feb. 17, 2026) at ¶ 166 (defining the class as all “U.S. Persons who, prior to the Settlement Date, have been Exposed to one or more Roundup Products and who (i) Applied any Roundup Products; (ii) purchased or paid for any Roundup Products or for the Application of any Roundup Products; (iii) participated in, directed, or saw the Application of any Roundup Products; or (iv) otherwise had reason to know of their Exposure. The Settlement Class also includes Derivative Claimants of the foregoing individuals.”); see also *id.* at ¶ 168 (carve-outs).

<sup>2</sup> Motion for Preliminary Approval, Exhibit 1, at 55 (Article X, section 10.1(d)).

in this and other venues. Indeed, this class action appears to be a stark departure from the ordinary because it is *putative class counsel* rather than class members' lawyers who are the strangers to the litigation and who now appear to ask the Court's permission to interfere with pre-existing attorney-client relationships. Perhaps a motion to intervene would have been unnecessary if Monsanto and its putative class counsel had agreed to allow extra time to study the proposal. But they did not. The Court should grant intervention to protect Intervenors' and other putative class members' due process rights and right to retain counsel of their choice (as they already have). Intervenors have concurrently filed a motion to set the preliminary approval hearing out at least 60 days, with oppositions to preliminary approval due to the Court ten days before the hearing.

*Second*, Intervenors have an interest in adequate representation in these proceedings. The pleadings filed by Monsanto and their putative class counsel suggest otherwise. The proposed settlement requires complete release of Monsanto and its affiliates but appears to lack provisions for some of the worst damages resulting from Roundup exposure, including (a) wrongful death, and (b) follow-on, non-NHL cancers caused by Roundup exposure. Nor do putative class members with these damages appear to be represented by named plaintiffs. Indeed, Monsanto's named plaintiffs do not seem to count among them a case of "aggressive" cancer.

These seeming omissions would matter in even a typical class settlement because they would create intra-class conflicts. But they appear even more problematic in this (extraordinarily) atypical putative class. Intervenors need more time to analyze the full extent of the concerns identified since receiving the papers on February 17th. A first read of some of the papers suggests that the element of time—that class members in lower payment tiers get less and have to wait longer to get paid, if they are paid at all—sets up possibly irreconcilable conflicts between the proposed settlement's compensation tiers, which are not subclasses represented by different

lawyers. Further time is needed to fully understand those conflicts and, if necessary, file appropriate papers with the Court before preliminary approval is considered.

*Third*, intervention is necessary to prevent confusion and delay, and to avoid the appearance of impropriety. A rush to preliminary approval is not justified, especially given the complexity of the underlying proposal and the unworkability of unwinding a preliminary approval later on. Class counsel says they spent nearly two years negotiating the proposed settlement agreement,<sup>3</sup> which weighs in at over 600 pages between the petition, motion, supporting declarations, exhibits, and the settlement agreement itself. Any suggestion that class members' counsel can fully, or even partially, digest that proposal within 15 days is unreasonable. And figuring it all out after preliminary approval is not a substitute for full consideration now. If the Court rushes to preliminarily approve the proposed settlement, as Monsanto's putative class counsel has suggested will happen, it will trigger expenditure of millions of dollars (on potentially defective class notice, attorney time filling out and submitting opt-outs, litigating objections, and more), authorize putative class counsel to interject themselves (without consent) into existing attorney-client relationships, in all likelihood strip putative class members of their ability to contest the adequacy of the class, and purport to stay all Roundup litigation statewide, regardless of the stage of the litigation or the plaintiffs' desire to opt out of this settlement. Thus, waiting to allow intervention at a later time will only delay proceedings and create confusion about the fairness and reasonableness of the proposed class settlement, the extant parties' ability to represent the putative class, and the validity of expedited preliminary approval. The most efficient course of action is to grant intervention now so that Intervenors can move for additional time to fully evaluate and weigh in on the proposal.

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<sup>3</sup> See Motion for Preliminary Approval, Exhibit 3, at ¶ 13.

As set out below, Intervenors are five Roundup claimants already filed in this Court who were not involved in the negotiations with Monsanto. Their cases against Monsanto make them class members under the proposed class settlement. Their interests are not represented by named plaintiffs and Monsanto’s putative class counsel. These class members may intervene as of right under Supreme Court Rule 52.12(a)(1)-(2).<sup>4</sup> Intervenors can make the minimal required showing that their interests are not represented in this action. In the alternative, Intervenors move to permissively intervene under Rule 52.12(b). Under either rubric, Missouri’s intervention rules are construed liberally, and easily satisfied by Intervenors’ arguments here. *See State ex rel. State Farm Mut. Auto. Ins. Co. v. Craig*, 364 S.W.2d 343, 347 (Mo. App. 1963) (“Statutes which govern intervention should receive a liberal construction.”).

## **THE PARTIES**

### **Named Plaintiffs**

Named plaintiffs purport to be five individuals who adequately represent every American—past, present, and future—who is or may become sick because of exposure to or following purchase of Roundup.<sup>5</sup> They are residents of Florida, California (exposed to Roundup

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<sup>4</sup> Intervenors’ Rule 52.12(c) pleading in intervention is this document (and its supporting papers), which is a pleading under Rule 1.03(g), and which sets forth the claims or defenses for which intervention is sought. *See Moxness v. Hart*, 131 S.W.3d 441, 447 (Mo. App. W.D. 2004) (“Appellants’ suggestions were not separate from the motion to intervene, but Rule 52.12(c) does not require separateness, only that the [suggestions] pleading accompany the motion. And as the appellants point out, it would be pointless to interpret Rule 55.12(c) as requiring the suggestions to be filed as a separate document. Such an interpretation would be unreasonable, and in interpreting Supreme Court rules, this court must avoid interpretations that are unjust, absurd, or unreasonable.”); *see also* Rule 1.06 (defining “pleading” to include a “motion”); *State ex rel. Country Mut. Ins. Co. v. May*, 620 S.W.3d 96, 101 (Mo. banc 2021) (Wilson, J., concurring) (suggesting procedural impropriety when a motion to intervene stated only the statutory entitlement to intervene without describing the intervenor’s claims or defenses).

<sup>5</sup> *See* Class Action Petition at ¶ 166.

in Missouri, but outside this circuit), Pennsylvania, and Missouri.<sup>6</sup> The three named plaintiffs who allege diagnoses claim to have either follicular or hairy cell lymphoma,<sup>7</sup> which both appear to be classified as less-serious “indolent” cancers by the proposed settlement agreement and so entitled to lesser compensation.<sup>8</sup> No named plaintiff appears to be diagnosed with an “aggressive cancer” entitled to greater compensation under the proposed agreement.<sup>9</sup> No named plaintiff appears to have a secondary cancer caused by their diagnosis with, or treatment for, NHL. And no named plaintiff seems to assert a wrongful death claim.

Beyond that, the petition’s factual allegations appear threadbare. Missing are details of each named plaintiff’s exposure, purchasing history, method of use, product(s) of use, date of diagnosis, and course of treatment—all details that Monsanto’s lawyers demand that every plaintiff supply in their petition or in discovery shortly after their case begins. Also missing are facts establishing propriety of venue; each named plaintiff just states that they “submit[] to the jurisdiction of this Court” and “allege[] venue in this Court is proper.”<sup>10</sup> *See* R.S.Mo. § 508.010.5(1). Also apparently missing are any facts concerning putative class counsel’s docket of Roundup cases, which has the strong potential of creating conflicts that defeat adequacy. *See Craft v. Philip Morris Companies, Inc.*, 190 S.W.3d 368, 379 (Mo. App. E.D. 2005) (“When it evaluates the adequacy of representation, the trial court must determine whether class counsel or the named representatives have conflicts of interest that will adversely affect the interests of the class.”); *see also* Mo. Bar. Rule 4-1.7(a).

### **Nominal Defendant**

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<sup>6</sup> *Id.* at ¶¶ 11–16.

<sup>7</sup> *Id.* at ¶¶ 11–13. The other two are not diagnosed with anything. *Id.* at ¶¶ 14–15.

<sup>8</sup> Motion for Preliminary Approval at 24; *id.*, Exhibit 1.B, at 5.

<sup>9</sup> Motion for Preliminary Approval at 24; *id.*, Exhibit 1.B, at 2–4.

<sup>10</sup> Class Action Petition at ¶¶ 11–15.

Monsanto Company is the nominal defendant. But it is hard to escape the impression that the proposed settlement would give Monsanto everything it desires—a near-complete release of liability for Monsanto and its parent company, Bayer AG—while giving inadequate consideration to many putative class members, who would surrender their substantive rights in exchange for settlement offers that may never result in payment. Indeed, Monsanto’s proposed class settlement appears to be unprecedented in many respects. One identified concern to Intervenors is the way the putative class settlement would not be fully funded for more than 16 years and is based on payment tiers without requiring Monsanto to actually pay anything to some tiers, coupled with the requirement that unpaid class members surrender rights to obtain any relief outside of the class. And the proposed settlement appears to contain only limited bankruptcy protections. More time is necessary to evaluate these provisions as well.

### **Intervenors**

Intervenors are five putative class members whose interests in this litigation are not protected by any other party. *See infra*. They are residential users and farmers. Unlike named plaintiffs, they have both “aggressive” and “indolent” cancers, as the proposed settlement defines those terms. They are already filed in this jurisdiction, and this Court (over Monsanto’s strenuous objections) has held that they are properly venued here. They hail from different states with different bodies of substantive law. They have NHL and follow-on cancers caused by Roundup. They represent loved ones who died as a result of using Roundup. And they have been actively litigating their claims represented by counsel they retained.

Alan Youngkrantz is a citizen of Minnesota who resides in Burnsville, Minnesota. Mr. Youngkrantz filed his petition against Monsanto in the Circuit Court of St. Louis City on December 30, 2024. Mr. Youngkrantz purchased and used Roundup products for weed control at

his residential properties in Farmington, Minnesota from July 1991 through October 2020. Mr. Youngkrantz used Roundup products two times a month each year from April to September. In July 2021, at age 65, he was diagnosed with Chronic Lymphocytic Leukemia and Small Lymphocytic Lymphoma. He underwent chemotherapy treatment between October 2021 and March 2022 and subsequent radiation treatment in August 2024. Mr. Youngkrantz was later diagnosed with skin cancer as a result of his original diagnosis and treatment for NHL.

Lisa Oakley is a citizen of Tennessee who resides in Cosby, Tennessee. Ms. Oakley filed her petition against Monsanto in the Circuit Court of St. Louis City on December 31, 2024. Ms. Oakley purchased and used Roundup products for weed control at her residential property in Palmyra, New York from May 2000 through September 2018. Ms. Oakley used Roundup products four times a month every year from May through September. In July 2020, at age 62, she was diagnosed with Chronic Lymphocytic Leukemia. Subsequently, Ms. Oakley was also diagnosed with Neuroendocrine Carcinoid Tumors in her lungs which have moved to her liver, and another tumor was recently discovered in her lung.

Donald Harryman is a citizen of Kansas who resides in Girard, Kansas. Mr. Harryman filed his petition against Monsanto in the Circuit Court of St. Louis City on December 31, 2024. Mr. Harryman purchased and used Roundup products for weed control at his residential property in Girard, Kansas from April 1982 to September 2022. Mr. Harryman used Roundup products one time per month every year for an average of 20–30 minutes for each application. Mr. Harryman also worked as a farmer between 1990 and 2020 and used Roundup products to control weeds on two agricultural properties in Girard, Kansas from April 1990 through September 2020. He used Roundup products one time per month every year between April 1990 and September 2008 on one agricultural property, and one time per month every year between April 1990 and September 2020

on the other agricultural property. In January 2023, at age 76, he was diagnosed with Small Lymphocytic B-Cell Lymphoma. He underwent chemotherapy treatment in May 2023 and is currently taking Calquence.

Donald Ray Justus is a citizen of Texas who resides in Azle, Texas. Mr. Justus filed his petition against Monsanto in the Circuit Court of St. Louis City on December 31, 2024. Mr. Justus purchased and used Roundup products for weed control at his residential properties in Louisiana and Texas between March 1975 through September 1976, March 1982 through November 1987, March 1989 through September 2003, March 2008 through July 2012, and March 2013 through October 2023. Mr. Justus used Roundup products, on average, two times per month every year from March through November. In April 2023, at age 63, he was diagnosed with Diffuse Large B-Cell Lymphoma. He underwent chemotherapy treatment between May 2023 and December 2023.

Fredrick Cook, deceased, was a citizen of Wisconsin who resided in Turtle Lake, Wisconsin. Kathryn Louise Cook, on behalf of her husband Fredrick Cook, filed her petition against Monsanto in the Circuit Court of St. Louis City on December 31, 2024. Mr. Cook purchased and used Roundup products for weed control at his residential property in Minnesota from May 1985 through August 2018. In August 2021, at age 66, he was diagnosed with Burkitt Lymphoma. Mr. Cook's Burkitt Lymphoma reoccurred in April 2022. Mr. Cook underwent radiation and chemotherapy treatment and had a stem cell transplant in August 2022. Subsequently, Mr. Cook was diagnosed with prostate cancer in 2022. Mr. Cook passed away in January 2024.

## **BACKGROUND**

### **The Roundup Litigation**

This litigation has been fought for over a decade by many of the undersigned firms, who represent nearly 20,000 Roundup claimants, and whom Monsanto and proposed class counsel excluded from negotiations.

The litigation began in 2015, after the International Agency for Research on Cancer (IARC) classified glyphosate, Roundup's active ingredient, as "probably carcinogenic to humans."<sup>11</sup> IARC's classification followed months of analysis by working groups of independent experts from 11 countries, who carefully reviewed "about 1000 studies" bearing on the links between glyphosate exposure and non-Hodgkin lymphoma.<sup>12</sup>

After IARC announced its findings in a detailed report, Roundup users suffering from non-Hodgkin lymphoma, including agricultural workers, groundskeepers, and homeowners, began filing lawsuits against Monsanto. In October 2016, the Judicial Panel on Multidistrict Litigation (JPML) transferred twenty-one of these lawsuits from around the country to the Northern District of California for consolidated proceedings in what would be MDL No. 2741, *In re: Roundup Products Liability Litigation*. Monsanto had objected, arguing that the cases did not have the requisite common questions of fact to warrant creation of an MDL.<sup>13</sup> Following transfer and consolidation, the district court appointed a leadership slate that included undersigned lawyers from Weitz & Luxenberg, PC, and Andrus Wagstaff Law Firm (now Wagstaff Law Firm) as co-lead counsel.

MDL leadership was quickly thrust into intense, high-stakes litigation. The court entered a scheduling order requiring plaintiffs to produce general causation expert reports within a matter of

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<sup>11</sup> IARC Monograph on Glyphosate, IARC: WHO (July 19, 2018), <https://www.iarc.who.int/featured-news/media-centre-iarc-news-glyphosate/>.

<sup>12</sup> *Id.*

<sup>13</sup> *In re Roundup Prods. Liab. Litig.*, 214 F. Supp. 3d 1346, 1347 (U.S. Jud. Pan. Mult. Lit. 2016).

months. Lead counsel invested millions of dollars developing reports from leading experts in epidemiology, oncology, hematology, veterinary pathology, toxicology, and biostatistics, many of whom had never previously testified as expert witnesses and required significant preparation. Monsanto—which to this day strongly disputes that Roundup causes cancer—put forth its own general causation experts, and sought the exclusion of MDL counsel’s expert testimony under *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579 (1993). Monsanto also moved for summary judgment on a number of grounds. Each side’s general causation experts were deposed for days, generally on videotape. The MDL court, together with the California state court, presiding over coordinated Roundup cases, held a *Daubert* hearing lasting seven court days, at which each side’s experts were questioned under oath at length, ultimately denying Monsanto’s *Daubert* and summary judgment motions.<sup>14</sup>

The parties proceeded to litigate specific causation, *i.e.*, whether Roundup caused the non-Hodgkin lymphoma of the plaintiff in a given case. Additionally, MDL leadership conducted extensive discovery concerning Monsanto’s liability and the availability of punitive damages. MDL leadership reviewed millions of pages of documents, and deposed dozens of corporate witnesses, in addition to taking and defending hundreds more depositions in the MDL and in individual federal and state Roundup cases. This work took tens of thousands of hours of attorney and support staff time, and millions of dollars outlaid.

The first MDL bellwether case proceeded to a jury trial. The plaintiff, Edwin Hardeman, is a homeowner who sprayed Roundup on his properties for decades and developed Diffuse Large B-cell Lymphoma, a subtype of non-Hodgkin lymphoma. The jury found that Monsanto was liable and awarded punitive damages. It awarded Mr. Hardeman approximately \$5 million in

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<sup>14</sup> MDL PTO No. 45.

compensatory damages and \$75 million in punitive damages, later reduced by the district court to \$20 million in punitive damages, for a total judgment of approximately \$25 million. The United States Court of Appeals for the Ninth Circuit affirmed the district court rulings challenged by Monsanto on appeal and upheld the verdict. *Hardeman v. Monsanto Co.*, 997 F.3d 941 (9th Cir. 2021), *cert. denied*, 142 S. Ct. 2834 (2022). Wagstaff Law Firm, counsel for Intervenors, was part of a team that represented Mr. Hardeman at trial and on appeal.

Firms associated with MDL leadership also represented Roundup users who developed non-Hodgkin lymphoma in two pivotal early trials in California state court in the months before and after the *Hardeman* trial. Like *Hardeman*, each of these hard-fought cases resulted in resounding successes for the plaintiffs. The juries found that Monsanto was liable for causing the plaintiffs' cancer and awarded substantial compensatory and punitive damages that were upheld on appeal. *Johnson v. Monsanto Co.*, 266 Cal. Rptr. 3d 111 (Ct. App. 2020); *Pilliod v. Monsanto Co.*, 282 Cal. Rptr. 3d 679 (Ct. App. 2021).

These trial verdicts dramatically changed the settlement landscape. The district court overseeing the MDL appointed Special Master Ken Feinberg to oversee settlement of the Roundup cases. Some of those Special Master settlement offers are larger than the proposed class settlement offers. Still, plaintiffs turn down Special Master settlements because they are too low.

Monsanto and Bayer, which acquired Monsanto, have paid to settle nearly 100,000 Roundup cases in state and federal court, all through individualized negotiation and without resort to a class device.<sup>15</sup> Indeed, Monsanto's lone prior attempt to coerce releases from absent class members ended quickly.

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<sup>15</sup> Ludwig Burger & Tina Bellon, *Bayer to Pay Up to \$10.9 Billion to Settle Bulk of Roundup Weedkiller Cancer Lawsuits*, Reuters (June 24, 2020),

In 2020, a class settlement much like this one was proposed in the MDL. Like this class settlement, it was comprised of one subclass for people diagnosed with NHL and one subclass for people who were not yet diagnosed. *In re Roundup Prods. Liab. Litig.*, 541 F. Supp. 3d 1004, 1006 (N.D. Cal. 2021) (noting that the first subclass excluded people already represented by counsel, unlike this proposed class). Also like this settlement, the 2020 proposal requires class members to surrender “the right to seek punitive damages” if they were not paid by the settlement fund. *Id.* at 1007. Judge Chhabria denied preliminary approval due to “glaring flaws” with the proposed settlement, with a special focus on the difficulty of notice for undiagnosed class members. He directed named plaintiffs and Monsanto to come back with a new motion. *Id.* at 1009. They never did. Instead, Monsanto bided its time, changed venue, and picked a new set of plaintiffs’ counsel in the hopes that this Court would not notice that this has been tried and rejected before.

### **Current Litigation**

During the six years since Monsanto’s last class settlement proposal, several features of the Roundup litigation have changed. First, the majority of claims are now litigated in state courts around the country. In addition to the cases in Missouri, there are large caseloads in Delaware state courts, a Philadelphia Mass Tort Program, and a New Jersey multi-county litigation. Each of these cases involves different defendants, different bodies of substantive and procedural law, and different law of the case. Many individual, uncoordinated cases are also pending in state courts outside Missouri. Many of the plaintiffs in these state-court actions do not have any contact with the State of Missouri and have not consented to this Court’s (or any other Missouri court’s)

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<https://www.reuters.com/article/business/bayer-to-pay-up-to-109-billion-to-settle-bulk-of-roundup-weedkiller-cancer-law-idUSKBN23V2NO/>.

jurisdiction. Each is represented by counsel that they have retained, and all are litigating their cases against Monsanto and other defendants, including local defendants.

Throughout these varied litigations, Monsanto has consistently taken the position that claims and plaintiffs cannot be consolidated, indeed cannot even be joined together on a single complaint. And, of course, this Court will need no reminding of Monsanto's aggressive fight to keep any Roundup cases from being venued in St. Louis City. At the same time that the company was making these representations to this Court and other courts, we now know that Monsanto was engaged in secret negotiations with proposed class counsel to impose settlement on represented state-court plaintiffs by way of this class action. As the motion for preliminary approval makes clear, Monsanto and class counsel have engaged in negotiations for almost two years. *See* Mot. for Prelim. Approval at 12. Despite all that time, Monsanto and their putative class counsel want "a hearing to consider the Preliminary Approval Order within 15 days after the Preliminary Approval Motion is filed."<sup>16</sup>

## **STANDARDS**

### **Intervention as of Right**

"Rule 52.12(a) governs intervention as of right." *Empire Dist. Elec. Co. v. Coverdell*, 588 S.W.3d 225, 240 (Mo. App. S.D. 2019); *see also Young v. Pressgrove*, 355 Mo. 204, 195 S.W.2d 516, 518 (1946) ("Intervention is defined as 'a proceeding in a suit or action by which a third person is permitted by the court to make himself a party, either joining plaintiff in claiming what is sought by the complaint, or uniting with defendant in resisting the claims of plaintiff, or demanding something adversely to both of them.'" (quotation omitted)). That rule allows, upon timely application, "anyone . . . to intervene in any action: (1) when a statute of this state confers

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<sup>16</sup> Motion for Preliminary Approval, Exhibit 1, at 55 (Article X, section 10.1(d)).

an unconditional right to intervene or (2) when the applicant claims an interest relating to the property or transaction that is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties." Mo. Sup. Ct. R. 52.12(a). "When an applicant satisfies these elements . . . the right to intervene is absolute and the motion to intervene *may not be denied*." *State ex rel. Nixon v. Am. Tobacco Co., Inc.*, 34 S.W.3d 122, 127 (Mo. banc 2000) (emphasis added). Rule 52.12(a) is "liberally construed to permit broad intervention." *Allred v. Carnahan*, 372 S.W.3d 477, 482 (Mo. App. W.D. 2012).

In a putative class action, a class member may intervene so long as he or she is not "advocating the same position [as] one [who] is already a party to the underlying suit." *Ring v. Metro St. Louis Sewer Dist.*, 41 S.W.3d. 487, 492 (Mo. Ct. App. 2000). Indeed, a class member *must* intervene in order to obtain standing to appeal certain portions of the trial court's settlement-approval decisions, including adequacy of class counsel. *Id.* at 491; *see also Smith v. SEECO, Inc.*, 865 F.3d 1021, 1025 (8th Cir. 2017) ("[A] member of a class should have the right to intervene in a class action if he can show the inadequacy of the representation of his interest by the representative parties before the court." (quoting Fed. R. Civ. P. 24 advisory committee's note to 1966 amendment)). That a class member can later opt out provides no basis to deny intervention. *SEECO*, 865 F.3d at 1024 ("Although some district courts, like the district court here, have ruled that class members are not entitled to intervene because they can protect their interests by opting out of the class, we think this reasoning is flawed.").

### **Permissive Intervention**

Alternatively, "Rule 52.12(b) permits intervention when a proposed intervenor's claim or defense and the main action have a question of law or fact in common." *Johnson v. State*, 366

S.W.3d 11, 21 (Mo. banc 2012). “Rule 52.12(b) provides for permissive intervention in three circumstances: ‘(1) when allowed by statute; (2) when an applicant’s claim or defense and the main action have a question of law or fact in common; or (3) when the state is seeking intervention in a case raising constitutional or statutory challenges.’” *Id.* (quoting *Comm. for Educ. Equal v. State*, 294 S.W.3d 477, 487 (Mo. banc 2009)). As with intervention under Rule 52.12(a), permissive “[i]ntervention generally should ‘be allowed with considerable liberality.’” *Id.* at 20 (quoting *In re Liquidation of Prof’l Med. Ins. Co.*, 92 S.W.3d 775, 778 (Mo. banc 2003)).

## ANALYSIS

### **I. Intervenorors Have a Right to Intervene under Rule 52.12(a).**

Class members may intervene as of right. Intervenor Kathryn Louis Cook has an unconditional statutory right to intervene under Rule 52.12(a)(1), and all Intervenorors have a right to intervene under Rule 52.12(a)(2).

#### **A. Intervenor Kathryn Louise Cook Has a Statutory Right to Intervene.**

Intervenor Kathryn Louise Cook has an unconditional statutory right to intervene under the Wrongful Death statute, R.S.Mo. § 537.080. This statute provides that “[o]nly one action may be brought under this section against any one defendant for the death of any one person,” *see id.*<sup>17</sup>

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<sup>17</sup> The Wrongful Death Statute, R.S.Mo. § 537.080, provides:

1. Whenever the death of a person results from any act, conduct, occurrence, transaction, or circumstance which, if death had not ensued, would have entitled such person to recover damages in respect thereof, the person or party who, or the corporation which, would have been liable if death had not ensued shall be liable in an action for damages, notwithstanding the death of the person injured, which damages may be sued for:

(1) By the spouse or children or the surviving lineal descendants of any deceased children, natural or adopted, legitimate or illegitimate, or by the father or mother of the deceased, natural or adoptive;

(2) If there be no persons in class (1) entitled to bring the action, then by the brother or sister of the deceased, or their descendants, who can establish his or her right to those damages set out in section 537.090 because of the death;

The Wrongful Death statute gives Ms. Cook, whose husband died as a result of his Roundup-caused cancer, the “unconditional right to intervene” in this case pursuant to Mo. Ct. R. 52.12(a)(1). Indeed, “[w]hen a statute confers an unconditional right of intervention, the proposed intervenor is entitled to intervene as a matter of right, the right to intervene is absolute and the motion **must be approved.**” *Martin v. Busch*, 360 S.W.3d 854, 856 (Mo. App. E.D. 2011) (citing *State ex rel. Nixon v. Am. Tobacco Co., Inc.*, 34 S.W.3d 122, 127 (Mo. banc 2000)) (emphasis added). In *Martin*, the Court of Appeals found that the Wrongful Death statute creates an “indivisible cause of action” that conveys just such an “absolute right to join” and an “entitle[ment] to intervene as a matter of right.” *Id.* at 857–58.

Here, Ms. Cook asserted a wrongful death cause of action on behalf of her husband, who used Roundup, got cancer because of that Roundup use, and died as a result of that cancer. She filed her petition in this Court on December 31, 2024, and the Court denied Monsanto’s motion to sever and transfer venue on June 6, 2025. The putative settlement class would create a second case that would appear to subsume Ms. Cook’s wrongful death claims because the proposed class settlement contemplates a release that would terminate those claims without compensation (the proposed settlement does not appear to provide anything but ordinary tiered compensation for cases that result in death). Ms. Cook has an unconditional right to intervene in this matter as of right, and the Court should permit her to do so.

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(3) If there be no persons in class (1) or (2) entitled to bring the action, then by a plaintiff ad litem. Such plaintiff ad litem shall be appointed by the court having jurisdiction over the action for damages provided in this section upon application of some person entitled to share in the proceeds of such action. Such plaintiff ad litem shall be some suitable person competent to prosecute such action and whose appointment is requested on behalf of those persons entitled to share in the proceeds of such action. Such court may, in its discretion, require that such plaintiff ad litem give bond for the faithful performance of his duties.

2. Only one action may be brought under this section against any one defendant for the death of any one person.

**B. All Intervenors Have an Interest in the Subject Matter of the Action.**

Each of the Intervenors have an interest in the subject matter of the putative class action. Intervenors must show “an interest relating to the property or transaction that is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant’s ability to protect that interest.” Mo. Ct. R. 52.12(a)(2). The relevant interests cannot be a “remote or conjectural possibility of being affected as a result of the action.” *Matter of Missouri-Am. Water Co. v. Hall*, 470 S.W.3d 761, 765 (Mo. App. W.D. 2015). Instead, the interest “must be such an immediate and direct claim upon the very subject matter of the action that the would-be intervenor will either gain or lose by the direct operation of the judgment that may be rendered therein.” *Id.* “When a party claims intervention as a matter of right, they are asserting that they may be legally bound or prejudiced by any judgment entered in the case.” *Id.*

Intervenors easily make that showing. At the outset, they are indisputably members of the putative class: they are U.S. persons who, prior to the settlement date, were exposed to Roundup (and were diagnosed with cancer as a result). *See* Class Action Petition at ¶ 166; *supra* (describing use and treatment). And none of the carve-outs to the class definition apply to them. *See id.* at ¶ 168(a)–(f). Intervenors will, by definition, be legally bound by the proposed settlement agreement if it is approved by this Court.

*First*, Intervenors’ interest in actually reading and having time to properly consider and be heard on the motion for preliminary approval and related papers is consonant with due process and basic concepts of procedural fairness. *See State ex rel. Kairuz v. Romines*, 806 S.W.2d 451, 453, 458 (Mo. App. E.D. 1991) (finding that an “order, entered without notice and without giving the parties an opportunity to be heard,” “constituted a failure of due process.”). Intervenors are seeking

to intervene now to protect their rights because Monsanto and putative class counsel would not agree to extend the preliminary approval hearing date beyond the 15-day period contemplated by the agreement. This is starkly insufficient time to fully evaluate the proposed class settlement and its numerous exhibits and accompanying materials. It is also unclear from the public docket when or whether the parties have requested an expedited hearing on preliminary approval, and there is nothing to alert putative class members' lawyers to the timing of the Court's impending preliminary approval decision, which would have significant effects on their rights. Making matters worse, Monsanto and putative class counsel seem to ask the Court to allow them to send class notices that would interject themselves into (and interfere with) *existing attorney-client relationships*, which are protected by the Missouri constitution. *Magerstadt v. La Forge*, 303 S.W.2d 130, 133 (Mo. banc 1957) ("A party to a civil action has a right to be represented by counsel at all stages of the litigation and a court's arbitrary refusal of such right is a denial of due process of law in that it impairs the party's constitutional right to be heard.").<sup>18</sup> With great respect to the Court, a 15-day review/intervention/opposition window would be arbitrary and unreasonable, as set out more fully below.

*Second*, Intervenors have an interest in representation by qualified, adequate named plaintiffs and class counsel. Mo. Sup. Ct. R. 52.08(a)(4). That right goes to the heart of this action. As explained in greater detail below, the proposed class, if approved, appears to strip Intervenors of their right to jury trial, compel them to release Monsanto and other companies not party to the settlement agreement, and participate in a claims process that may or may not result in compensation. And if they elect to opt out, their litigation would be stayed if the proposed

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<sup>18</sup> If Monsanto had defined the class to exclude represented parties, as they did before Judge Chhabria, this might not be a problem. But they did not do so.

settlement remains intact. If compensation is delayed, Intervenor can seemingly only exit the settlement by surrendering their right to seek punitive damages, a provision that Judge Chhabria has already rejected as fundamentally unfair to putative class members. *See supra*.

Monsanto and their putative class counsel may respond that any problem Intervenor have with the proposed settlement can be remedied by opting out. But courts have rejected that argument. *SEECO*, 865 F.3d at 1024–25 (holding that the “[a]lthough some district courts . . . have ruled that class members are not entitled to intervene because they can protect their interests by opting out of the class, we think this reasoning is flawed”). Indeed, the only way for Intervenor to challenge the rushed schedule of preliminary approval, the substance and procedural propriety of the settlement proposal, and the adequacy of named plaintiffs and putative class counsel is to intervene. Further, Monsanto and class counsel are asking the Court to enter a preliminary approval order with far-ranging immediate effects, including class notice and a purported stay of litigation. This should not be done effectively *ex parte* without hearing from Intervenor and other affected persons.

*Third*, Intervenor have an interest in the efficient resolution of the issues presented by this class action. As discussed above, Intervenor (like most identifiable putative class members) are already claimants against Monsanto, and are already represented by counsel. They are in the process of litigating their cases, and undue interference in the form of protracted class litigation accompanied by a stay of proceedings will undermine Intervenor’s rights. As described below, the best method to avoid this problem is to allow Intervenor to intervene now.

**C. Intervenor’s Interests May Be Impaired by this Action.**

For many of the same reasons, Intervenor’s interests will be impaired by this action if intervention is not granted. *See Kinney v. Schneider Nat. Carriers, Inc.*, 200 S.W.3d 607, 614 (Mo.

App. W.D. 2006) (noting that the relevant inquiry is whether, as a practical matter, the intervenor's interests "might be impaired or impeded without intervention"). This will happen in at least three ways. First, the parties may ask the Court to adjudicate preliminary approval without hearing from Intervenor, whose interests are not adequately represented by the parties currently in the litigation. *See infra*. This would deprive them of their due process rights by allowing putative class counsel to interfere with existing attorney-client relationships by notifying class members directly about the class settlement. The Court should give Intervenor and counsel for putative class members time to digest the 600-plus pages of class paperwork that Monsanto and its putative class counsel spent two years negotiating and filed last week.

Second, Intervenor's rights to be adequately represented by counsel and named plaintiffs will be surrendered absent intervention. As explained below, named plaintiffs and putative class counsel appear, on first glance, to be inadequate. And Intervenor's only chance of having that issue timely adjudicated by the Court is before preliminary approval is granted. Intervention is thus necessary now to protect Intervenor's (and other putative class members') interests.

Third, delay is not in Intervenor's (or any other putative class member's) interest. Intervenor may wish to continue litigating their cases against Monsanto, obtaining trial dates, and pursuing either trial or settlement of much greater possible value than appears to currently be on offer from the proposed settlement. The best way to expeditiously resolve the myriad legal issues the putative class presents is to allow Intervenor to join the case now, rather than waiting to discover any problems with the proposed settlement until they are more difficult and (far) more costly to fix (assuming a fix is even possible).

Intervention is necessary now to protect Intervenor's interests.

**D. Intervenor's Interests Are Not Adequately Represented by an Existing Party to this Action.**

Intervenors easily satisfy their burden under Rule 52.12(a)(2) to show that their interests are not “adequately represented by existing parties.” Where, as here, “the first two requisites for [intervention as of right] are met,” this “element requires only the ‘minimal showing’ that the representation ‘may be’ inadequate.” *Allred*, 372 S.W.3d at 487 (citing *Toombs v. Riley*, 591 S.W.2d 235, 237 (Mo. App. W.D. 1979)). This showing may be made where “a legal disability or the trial strategy of the party . . . would preclude the party from presenting the claims or defenses of the proposed intervenor,” or where there is otherwise a “divergence of interest between the proposed intervenor and the party.” *Id.* at 486–87 (citing *Toombs*, 591 S.W.2d at 237, and *Alsbach v. Bader*, 616 S.W.2d 147, 151 (Mo. App. E.D. 1981)).

Where a proposed intervenor makes a colorable showing of inadequate representation, their intervention motion should be granted, notwithstanding that they may have the right to “opt out and litigate separately.” *SEECO*, 865 F.3d at 1025. Rules 52.08 and 52.12, and the federal rules on which they are based, provide for intervention as of right in precisely this posture. “When Rule 24 on intervention was amended in 1966, the advisory committee specifically contemplated that ‘a member of a class should have the right to intervene in a class action if he can show the inadequacy of the representation of his interest by the representative parties before the court.’” *Id.* (citing Fed. R. Civ. P. 24 advisory committee’s note to 1966 amendment); *see* Mo. R. Ct. 52.08(d)(1)(B)(iii) (in conducting a proposed class action, the court may issue orders “giving appropriate notice to some or all class members of . . . the members’ opportunity to signify whether they consider the representation fair and adequate, *to intervene and present claims or defenses*, or to otherwise come into the action”) (emphasis added).

The proposed class action settlement raises at least four red flags suggesting that the putative class representatives and their counsel do not adequately represent the interests of Intervenor<sup>19</sup>.

*First*, the proposed settlement seeks a broad stay of proceedings statewide, which confirms that no party to this case adequately represents the interests of people like Intervenor<sup>19</sup>, who are actively litigating their cases. As a part of the settlement, the putative class representatives and Monsanto jointly propose that the Court enter an order purporting to stay *all Roundup litigation in Missouri*, supposedly by way of an “Unopposed Motion,” giving no notice or opportunity to be heard to the thousands of people who would be affected by such an order, some of whom have fast-approaching trial dates.<sup>20</sup> This may be no skin off the backs of the proposed class representatives, who just filed their case last week, or off the backs of their counsel, who did not file this case with the intent to litigate it. And of course, this would be highly valuable consideration to Monsanto, which has repeatedly and unsuccessfully sought to stay Roundup cases in Missouri on various grounds, and which has seen its stay requests in St. Louis County denied by Judge May just last month and by Presiding Judge Hilton this past summer—important adverse authority that proposed class counsel’s moving papers omit when advocating for a stay here. *See Amos v. Monsanto Co.*, 20SL-CC-03676 (Mo. Cir. Ct. St. Louis Cnty. Jan. 30, 2026); *Curtis v. Monsanto Co.*, No. 19SL-CC04275 (Mo. Cir. Ct. St. Louis Cnty. Aug. 8, 2025) (Hilton, J.). But a stay of this nature would prejudice the rights of Intervenor<sup>19</sup> and others who have been actively litigating their cases and have a right to their day in court.

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<sup>19</sup> Intervenor<sup>19</sup>’ counsel continues to review the dense and voluminous settlement materials filed just last week, and reserve all rights to supplement this Motion and to seek such further relief as justice requires.

<sup>20</sup> Such an order would be *ultra vires* and would far exceed the Court’s inherent or statutory authority.

To be clear, there are numerous other potential substantive issues with the proposed settlement’s treatment of claims brought by active Roundup litigants, including interference with the attorney-client relationship, claim valuation, payout timing, and releases, among others. But the stay request alone—which Monsanto and proposed class counsel are asking the court to enter now, and not at the final approval stage—is grounds enough for a finding of inadequate representation, and for intervention before any preliminary approval can be granted. *See Allred*, 372 S.W.3d at 487 (intervention warranted where a “legal disability or the trial strategy of the party . . . would preclude the party from presenting the claims or defenses of the proposed intervenor”).

*Second*, the interests of Intervenors are not adequately represented because Intervenors are all residential Roundup users (as well as one Intervenor that used in both residential and agricultural settings); the settlement gives preferential treatment to occupational Roundup users; and the settlement was negotiated by plaintiffs’ counsel who purported to represent both residential and occupational users in an undifferentiated “Subclass 1.” For representation to be adequate, subclasses with different interests must have “separate representation to eliminate conflicting interests of counsel.” *Ortiz v. Fibreboard Corp.*, 527 U.S. 815, 856 (1999) (citing *Amchem Prods. v. Windsor*, 521 U.S. 591, 627 (1997)). Here, the lack of separate representation presents significant potential conflicts, and at a minimum, raises real concerns that “the representation ‘may be’ inadequate,” as needed to warrant intervention. *Allred*, 372 S.W.3d at 487; *see State ex rel. Union Planters Bank, N.A. v. Kendrick*, 142 S.W.3d 729, 740 (Mo. banc 2004) (the court presiding over a proposed class action must “constantly scrutinize the class attorney to see that he is adequately protecting the interests of the class.”).

The proposed settlement heavily favors occupational Roundup users over residential users like Intervenors. It would pay occupational users several times as much as residential users for their claims, simply on the basis of their job descriptions, even for people with similar forms of cancer and exposure levels. For example, the proposed “tier average” for an occupational claimant diagnosed before age 60 with aggressive NHL is \$165,000, while a residential claimant with the same traits would average \$40,000. Proposed Agreement at § 6.6. What’s more, it appears that in any given year, the occupational plaintiffs would take priority in the payment “waterfall,” and if the fund allocated by Monsanto for a given year is exhausted as a result, these lower-priority residential users would need to wait a year, or years, to finally recover. *Id.* at § 6.11. Indeed, an occupational claimant who is diagnosed later (if before age 78), with a slower-moving disease, is paid more and paid sooner than a residential user diagnosed sooner with a more aggressive form of NHL. *Id.* at § 6.6.

There are many reasons to question this scheme on its merits, but for purposes of this Motion, the immediate adequacy concern is that the same counsel purported to represent both occupational and residential users when negotiating it. “Only the creation of subclasses, and the advocacy of an attorney representing each subclass, can ensure that the interests of that particular subgroup are in fact adequately represented.” *In re Literary Works in Elec. Databases Copyright Litig.*, 654 F.3d 242, 252 (2d Cir. 2011). Because Intervenors are not represented in this action by any counsel who is advocating solely for residential users, and the counsel who advocated for both residential and occupational users struck a much better deal for occupational users, Intervenors make the showing of inadequate representation needed to support intervention. *Allred*, 372 S.W.3d at 487.

*Third*, as noted, the proposed class representatives are not adequate because, among the three who have been diagnosed with any form of cancer, all three have what the settlement agreement classifies as less serious “indolent” cancers. There is no representation for people with “aggressive” cancers, like Intervenor Justus; no representation for people like Intervenors Youngkrantz and Oakley, who suffered from serious follow-on diseases (for which the proposed settlement agreement gives zero compensation); and no representation for people like Intervenor Cook, whose spouse tragically passed away from non-Hodgkin’s lymphoma. These significant gaps in representation—which are far from unique to Intervenors and affect many absent class members whose rights the proposed class would seek to bind—render the current slate of representatives inadequate and warrant intervention.

*Finally*, the sheer scale and impact of the proposed settlement, together with concerns raised by its terms and how it was negotiated, warrant broader public participation and scrutiny by Intervenors and others *before* preliminary approval of this settlement. Proposed class counsel and Monsanto are adversaries on paper, but they both want the same thing: approval of a dense and complex agreement hundreds of pages long, negotiated behind closed doors rather than achieved after litigation in a public forum, that purports to affect the rights and obligations of many millions of people throughout the United States. The unopposed motion and the parties behind it do not adequately represent the interests of Intervenors or others who have concerns or even questions about what this agreement is or does. This matters because in granting preliminary approval of a settlement, the Court has an independent obligation to satisfy itself that it will likely be able to give final approval to the proposed settlement and certify the class. Mo. Sup. Ct. R. 52.08(e)(1)(B). To this end, the Court, Intervenors, and ultimately the public, would benefit from an open and potentially more adversarial presentation of views, rather than the one-sided advocacy in putative

class counsel's moving papers. Even preliminary approval would have meaningful consequences, triggering a mass-media advertising campaign that would cause pro-settlement marketing to be disseminated to millions of people, many represented by counsel, though still of questionable notice value for many or most of the people who the settlement purports to bind. The Court should not rubber-stamp even the first step of this vast proposal without first hearing from Intervenors and others who do not have a vested interest in approval of the settlement.

**E. Intervention Is Timely and Would Not Result in any Undue Delay or Prejudice to any Party.**

Intervenors' motion is timely. Mo. Sup. Ct. R. 52.12 does not provide an express time limit for intervention, so the timeliness of the attempted intervention is assessed based on all the circumstances in the case. *Smith v. Smith*, 698 S.W.3d 449, 454 (Mo. App. S.D. 2024). Courts also typically examine the prejudice that may result to the parties from allowing or preventing intervention. *Corson v. Corson*, 640 S.W.3d 785, 789 (Mo. App. E.D. 2022). Federal courts interpreting the substantially similar Fed. R. Civ. P. 24,<sup>21</sup> look at the following factors in assessing timeliness: “(1) the extent the litigation has progressed at the time of the motion to intervene; (2) the prospective intervenor's knowledge of the litigation; (3) the reason for the delay in seeking intervention; and (4) whether the delay in seeking intervention may prejudice the existing parties.” *Am. Civil Liberties Union of Minnesota v. Tarek ibn Ziyad Acad.*, 643 F.3d 1088, 1094 (8th Cir. 2011).

With regard to the first factor, the putative class petition was filed a week ago on February 17, 2026, along with the Unopposed Motion for Entry of the Preliminary Approval Order and Suggestions in Support. Intervenors have not delayed in filing this motion to intervene, which was

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<sup>21</sup> Missouri courts have looked to federal court interpretations for guidance. *Corson*, 640 S.W.3d at 789.

e-filed and served on February 24, 2026, even though the filing constitutes over 600 pages. Indeed, Intervenor's have moved as quickly as practicable to review the filings to evaluate the proposed settlement's terms, and they now ask the Court to allow them to participate in the action to ensure the Court is aware of the unrepresented interests before proceeding to consider Monsanto and their putative class counsel's motion for preliminary approval.

As to the second factor, the Intervenor's were not involved in the negotiation of this putative class action, and did not receive the over 600 pages of submissions in support until they were e-filed on February 17. Intervenor's have moved quickly to file their motion to protect their rights. There has thus been no delay in seeking intervention; the third factor does not apply.

Lastly, in examining whether there is prejudice to the original parties from a proposed intervention, courts look at the prejudice from any delay in moving for intervention rather than prejudice caused by the intervention itself. *In re Auto. Parts Antitrust Litig., End-Payor Actions*, 33 F.4th 894, 905 (6th Cir. 2022). Here, there has been no delay in the filing of Intervenor's motion, and there is no prejudice against the original parties. Indeed, the only prejudice is to Intervenor's and other putative class members, who have been locked out of nearly two years of negotiation, and are now asked to stand back while Monsanto and their putative class counsel ram through preliminary approval in 15 days' time. *See supra*.

The request to intervene is timely.

## **II. In the Alternative, This Court Should Allow Intervenor's to Permissively Intervene under Rule 52.12(b)(2).**

Intervenor's alternatively request permission to intervene pursuant to Mo. Sup. Ct. R. 52.12(b). Rule 52.12(b)(2) allows for permissive intervention when an applicant's claim or defense and the main action have a question of law or fact in common. *Johnson v. State*, 366 S.W.3d 11, 21 (Mo. banc 2012).

Intervenors qualify for permissive intervention because their claims have questions of law or fact in common with named Plaintiffs. Each intervenor asserts personal injury claims arising out of their personal use of Roundup products and subsequent diagnosis of a form of NHL. Each makes claims for strict products liability-design defect and strict products liability-failure to warn, both asserted in named plaintiffs' petition. They assert the same or similar claims for injury as the named plaintiffs. Intervenors have litigated these claims since December 2024. Clearly, Intervenors' claims share common questions of law and fact with this action. *Meyer v. Meyer*, 842 S.W.2d 184, 188 (Mo. App. E.D. 1992) (permissive intervention was proper because movant's defense relied upon common question of law and fact). In addition, Intervenors assert different claims: negligence and wrongful death. These are all claims not being represented by named plaintiffs. Permissive intervention is appropriate when intervenors can show interests unique to themselves. *Johnson*, 366 S.W.3d at 21 (upholding permissive intervention as intervenors had unique personal and economic interests at stake in the litigation). Intervenors meet the requirements for permissive intervention under Mo. Sup. Ct. R. 52.12(b).

Moreover, permissive intervention will not unduly delay or prejudice the rights of the original parties. Intervenors are moving to intervene within three days of the Petition and the 600 pages of pleadings being filed and before any further action in the case takes place.

### **CONCLUSION**

Intervenors are entitled to intervene in this action as of right or, in the alternative, permissively. The Court should grant intervention and the concurrently filed motion for extension, which sets the preliminary approval hearing out at least 60 days.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing was filed and served by the Missouri Electronic Filing System on this 24<sup>th</sup> day of February 2026, to all counsel of record.

*/s/ Mark R. Niemeyer* \_\_\_\_\_