



Dewayne 'Lee' Johnson reacts to the \$289m verdict in his case against Monsanto. (photo: Josh Edelson/AP)

'We Did the Right Thing': Jurors Urge Judge to Uphold Monsanto Cancer Ruling

By Sam Levin, Guardian UK, 21 October 18

After judge suggests she will overturn \$289m verdict, those behind it call for justice for Dewayne Johnson

Jurors who ruled that Monsanto [caused a dying man's cancer](#) are fighting to uphold their landmark \$289m verdict, publicly urging a judge not to [overturn their decision](#) in a groundbreaking trial.

Four California jurors told the Guardian that they were shocked and angry to learn that the judge overseeing their trial had [moved](#) to throw out their unanimous verdict, which said the agrochemical corporation failed to warn consumers that its popular weedkiller product posed health risks.

The ruling in August, which [sparked](#) concerns across [the globe](#) about the Roundup herbicide, included \$250m in punitive damages to the plaintiff, Dewayne "Lee" Johnson, [who has terminal cancer](#). But San Francisco superior court judge Suzanne Bolanos stunned campaigners and jurors last week when she issued a tentative ruling on Monsanto's appeal

motion, saying she would [likely grant a new trial](#) due to the "insufficiency of the evidence".

"I was just gobsmacked and outraged. I was astonished," Robert Howard, juror No 4, said in an interview on Thursday. "Why do we have a jury system if the judge can just toss it out?"

Bolanos hasn't yet made a final ruling, leading to an unusual public plea from the jurors and mounting pressure on the judge in recent days. Some jurors said they became emotionally invested in the trial and now felt it was their duty to advocate for their decision and fight for Johnson to receive his award.

It's a high-stakes moment in a years-long battle surrounding [glyphosate](#), the world's most widely used herbicide, which studies have shown is linked to cancer. Monsanto, now owned by Bayer, the German pharmaceutical company, has long sold the chemical under the brands Roundup and Ranger Pro, and has continued to argue that it is safe to use and does not

cause cancer. Johnson, who could have months to live, has [become a hero to some cancer patients and families](#), and thousands have filed similar legal claims across the US.

Gary Kitahata, another juror, said he was swayed by the evidence presented by Johnson's attorneys, especially internal Monsanto emails suggesting the company had [worked to stifle critical research](#) while promoting and contributing to studies that concluded glyphosate was safe.

"They were protecting a product that was very important to the corporation's bottom line," said Kitahata, a 64-year-old consultant for local governments, who served as juror No 1.

Monsanto's private communications about science made it easy for the jury to rule that the company "acted with malice or oppression", which led to the punitive damages award, Kitahata said. "That should be the corporation's job, to make sure their product is safe ... If there are any questions, that should be on the product warning label."

Johnson, a father of three who lives in northern [California](#), testified that he would not have sprayed the herbicide on school grounds if the label had warned of cancer risks.

Even though the trial has ended and the jury was dismissed, more than half its members showed up to court last week for an appeal hearing out of personal interest, some taking the time off work, the jurors said. The hearing was about the appeal by Monsanto, which has [argued](#) that the evidence presented did not support the jury's decision and was at [odds](#) with science.

Charlie Kaupp, juror No 11, said he was "incredibly disappointed" and "very surprised" to learn that the judge seemed to be siding with [Monsanto](#) and invalidating the jury's collective work.

"Now that the verdict is threatened, we felt almost a continuation of our civic duty to protect our own verdict. We have pride in it. We worked hard. We felt we did the right thing."

Some jurors have written formal letters to the judge urging her to reconsider, and activists are now pressuring Bolanos with an [online petition](#).

Bolanos, who is expected to make a final decision in the coming days, could rule to lower the monetary award or could toss out the verdict altogether and grant a new trial. The judge has also raised questions about the way the jury calculated the \$33m it awarded in future non-economic damages.

Kitahata said he was perplexed at why the judge didn't raise these questions during the trial: "It's extremely frustrating."

Kaupp, a 39-year-old product manager at a software company, said the jury had "followed the judge's instructions to a tee", adding that the six-week trial was a "big emotional investment on the part of all the jurors, but more importantly, we still believe we issued the correct verdict".

Howard, 60, wrote a letter to Bolanos saying the jury's "integrity, intelligence, and common sense has been cleverly and openly attacked by inference", adding: "The possibility that, after our studious attention to the presentation of evidence, our adherence to your instructions, and several days of careful deliberations, our unanimous verdict could be summarily overturned demeans our system of justice and shakes my confidence in that System."

He told the Guardian that the trial had motivated him to divest from corporations like Monsanto, adding: "It was a life-changing experience for me."

Kaupp said he "didn't want to put Monsanto out of business" but was concerned about some of its business practices. He added: "I'm probably not going to use Roundup anytime soon."