

No. 24-1068

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IN THE  
**Supreme Court of the United States**

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MONSANTO COMPANY,

*Petitioner,*

*v.*

JOHN L. DURNELL,

*Respondent.*

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ON WRIT OF CERTIORARI TO THE COURT OF  
APPEALS OF MISSOURI, EASTERN DISTRICT

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**BRIEF OF *AMICI CURIAE* MISSOURI STATE  
SENATOR JASON BEAN, 33 ELECTED OFFICIALS,  
THE MISSOURI SOYBEAN ASSOCIATION, AND  
SEVEN STATE AGRICULTURE ORGANIZATIONS  
IN SUPPORT OF PETITIONER**

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**IDENTITY AND INTEREST OF *AMICI CURIAE***

*Amici* are Missouri State Senator Jason Bean, 33 elected officials, the Missouri Soybean Association, and seven state agriculture organizations, all of which understand the critical role glyphosate-based herbicides play in America's agriculture industry.<sup>1</sup>

*Amicus* Missouri State Senator Jason Bean advocates for thousands of Missouri farmers whose crops require use of glyphosate as herbicide. He is Chairman of the Missouri Senate Committee on Agriculture, Food Production and Outdoor Resources and represents Missouri's 25th Senate District, which contains nearly 2 million acres of cropland in the Southeast Missouri counties of Butler, Carter, Dunklin, Mississippi, New Madrid, Oregon, Pemiscot, Ripley, Stoddard, and Wayne. *See Census of Agriculture: 2022 State and County Profiles – Missouri*, U.S. DEP'T OF AGRIC., NAT'L STATISTICS SERV. (2024).<sup>2</sup> Senator Bean himself farms over 8,000 acres and grows a variety of crops, including watermelon, cantaloupe, cotton, rice, corn, and soybeans. All these crops require use of glyphosate.

As a fifth-generation Missourian, Senator Bean is also concerned about protecting Missouri's agricultural industry. Agriculture is central to the economy of Missouri, which boasts approximately 87,600 farms and 27 million acres of farmland. *See Danyelle Chinn & Alejandro Plastina, Show-Me 2025 Missouri Agricultural Outlook 4*, RURAL & FARM FIN.

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<sup>1</sup> Pursuant to Rule 37.6, *amici* affirm that no counsel for a party authored this brief in whole or in part, and that no person or entity other than *amici curiae*, their members, or their counsel made a monetary contribution to its preparation or submission.

<sup>2</sup> Available at <https://perma.cc/PHD3-JP7J>.

POL'Y ANALYSIS CTR., UNIV. OF MO. (Dec. 2024).<sup>3</sup> The success of many Missouri farms depends on reliable access to quality glyphosate.

Additional *amici* elected officials are President Pro Tem Cindy O'Laughlin (Missouri), Senate Majority Leader Tony Luetkemeyer (Missouri), House Majority Leader Alex Riley (Missouri), Speaker Pro Tem Chad Perkins (Missouri), Senator Rusty Black (Missouri), Senator Justin Brown (Missouri), Senator Jamie Burger (Missouri), Senator Kurtis Gregory (Missouri), Senator Mike Henderson (Missouri), Senator Curtis Trent (Missouri), Representative Dane Diehl (Missouri), Representative David Dolan (Missouri), Representative Sherri Gallick (Missouri), Representative Willard Haley (Missouri), Representative Bill Irwin (Missouri), Representative Doyle Justus (Missouri), Representative Scott Miller (Missouri), Representative Mark Nolte (Missouri), Representative Sean Pouche (Missouri), Representative Greg Sharpe (Missouri), Representative John Simmons (Missouri), Senate President Warren Petersen (Arizona), Senate Majority Leader Mike Klimesh (Iowa), Representative Bobby Kaufman (Iowa), House Majority Leader Christopher Croft (Kansas), Senator Kellie Warren (Kansas), Representative Angel Roeser (Kansas), Representative Ryan Bivens (Kentucky), Agriculture Commissioner Doug Goehring (North Dakota), Speaker of the House Robin Weisz (North Dakota), Senate Majority Leader David Hogue (North Dakota), Representative Mike Beltz (North Dakota), and Representative Lawrence Klemin (North Dakota).

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<sup>3</sup> Available at <https://perma.cc/TD3J-G8Z8>.

*Amicus* the Missouri Soybean Association (“MSA”) represents soybean farmers across Missouri to ensure their voices are heard. Soybean farmers are critical to the State’s economy. In 2023, soybeans were the State’s top agricultural export. *See id.* at 9. And in 2024, soybeans accounted for the largest share of planted acres in Missouri. *Id.* at 36. This case is of critical importance to MSA members because the outcome will directly affect the availability of U.S.-made glyphosate for soybean production.

Additional *amici* state agriculture organizations are the Missouri Corn Growers Association, Missouri Agribusiness Association, Missouri Rice Council, Cotton Producers of Missouri, Missouri Dairy, Missouri Cattlemen’s Association, and Missouri Pork Association.

### SUMMARY OF THE ARGUMENT

The key purpose of the Federal Insecticide Fungicide and Rodenticide Act (“FIFRA”), 7 U.S.C. §§ 136-136y, is to protect consumers and the environment. 7 U.S.C. §§ 136a, 136(bb). Congress knew that a “comprehensive regulatory statute,” *Ruckelshaus v. Monsanto Co.*, 467 U.S. 986, 991 (1984) (citation omitted), and preemption of failure-to-warn state tort laws were necessary to achieve these goals. That is why FIFRA unambiguously manifests Congress’s express intent to preempt such state laws. 7 U.S.C. § 136v(b). But even if FIFRA were ambiguous, it would still preempt private enforcement through the states’ tort systems. Tort liability threatens to push Monsanto, the last remaining domestic supplier of glyphosate, from the market. Monsanto’s assets are at risk from domestic tort judgments, and Monsanto will change its conduct based on domestic litigation risk. Not so for Chinese glyphosate suppliers. These suppliers are practically immune from regulation-by-tort. They could thereby dominate the market in a world without Monsanto and pose a great threat to U.S. farmers and consumers. Absent preemption, the powerfully lopsided effect of state tort liability will overwhelm FIFRA’s carefully calibrated, comprehensive system to ensure adequate warnings for all herbicides sold to U.S. farmers. Farmers like Senator Bean will find themselves forced to rely entirely on foreign suppliers of glyphosate. By over-detering U.S. suppliers and favoring potentially dangerous foreign suppliers, state tort liability frustrates FIFRA’s goal of protecting consumers. This Court should reverse.

## ARGUMENT

### I. Top U.S. Agricultural Products Depend on Glyphosate.

The United States is the second largest agricultural trader in the world, ranking behind only the aggregated European Union. *See U.S. Agricultural Trade at a Glance*, U.S. DEP'T OF AGRIC., ECON. RES. SERV. (July 22, 2025).<sup>4</sup> In 2025, U.S. agricultural trade accounted for \$175.6 billion in exports. *See Outlook for U.S. Agricultural Trade: December 2025* 1, U.S. DEP'T OF AGRIC., ECON. RES. SERV. & FOREIGN AGRIC. SERV. (Dec. 23, 2025).<sup>5</sup> Agriculture accounts for a substantial portion of U.S. gross domestic product ("GDP"), contributing \$222.3 billion to GDP in 2023. *See Steven Zahniser, What Is Agriculture's Share of the Overall U.S. Economy?*, U.S. DEP'T OF AGRIC., ECON. RES. SERV. (Dec. 19, 2024).<sup>6</sup> And in 2024, U.S. crop cash receipts totaled \$244.9 billion. *See Corn, Soybeans Accounted for 46 Percent of U.S. Crop Cash Receipts in 2024*, U.S. DEP'T OF AGRIC., ECON. RES. SERV. (Feb. 5, 2026).<sup>7</sup> Of the \$244.9 billion, soybeans and corn were two of the nation's top agricultural products, accounting for a combined \$112.7 billion (46%) of crop cash receipts. *Id.*; *see also* James Kaufman, *U.S. Agricultural Export Values Climb to Third-Highest Level in 2024*, U.S. DEP'T OF AGRIC., ECON. RES. SERV. (Apr. 1, 2025).<sup>8</sup>

These staggering numbers are attributable in large part to glyphosate. Exec. Order No. 14387, 91 Fed. Reg. 8703, 8703 (Feb. 18, 2026). Since its

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<sup>4</sup> Available at <https://perma.cc/2XVA-VKHT>.

<sup>5</sup> Available at <https://perma.cc/PY9X-WB62>.

<sup>6</sup> Available at <https://perma.cc/4MGU-ZKF5>.

<sup>7</sup> Available at <https://perma.cc/A89N-NA9M>.

<sup>8</sup> Available at <https://perma.cc/4BYM-3QA4>.

introduction in 1974, Monsanto's glyphosate-based Roundup has revolutionized the agricultural industry and bolstered American production of critical crops. Combined with the introduction of glyphosate-resistant crop varieties, glyphosate has reduced farm inputs and increased farm outputs in a cost-effective, crop-safe, and flexible manner. See *Memorandum, Glyphosate: Response to Comments, Usage, and Benefits* 2, 6, 19, ENV'T PROT. AGENCY (Apr. 18, 2019).<sup>9</sup> Soybean yields, for example, increased from 35.3 bushels per acre in 1995 (before adoption of glyphosate-resistant seeds) to 53 bushels per acre in 2025. See *U.S. Yield & Production: Yield History*, SOYSTATS (last visited Feb. 18, 2026)<sup>10</sup>; *Crop Production 2025 Summary* 3, U.S. DEP'T OF AGRIC. (Jan. 2026)<sup>11</sup>; Michael Livingston, et al., *The Economics of Glyphosate Resistance Management in Corn and Soybean Production* 1, U.S. DEP'T OF AGRIC., ECON. RES. SERV. (Apr. 2015).<sup>12</sup> Similarly, corn yields boomed over the course of three decades, from 113.5 bushels per acre in 1995 to 186.5 bushels per acre in 2025. See *Quick Stats*, U.S. DEP'T OF AGRIC., NAT'L AGRIC. STATISTICS SERV. (1995)<sup>13</sup>; *Crop Production 2025 Summary, supra*, at 3. These skyrocketing yields are even more remarkable given that the number of American farms continues to decline. See Katherine Kassel, *Productivity Growth Is the Major Driver of*

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<sup>9</sup> Available at <https://perma.cc/5RVN-JYXD>.

<sup>10</sup> Available at <https://perma.cc/PSS3-L6U4>.

<sup>11</sup> Available at <https://perma.cc/F72U-LUPP>.

<sup>12</sup> Available at <https://perma.cc/Z3GU-DZGD>.

<sup>13</sup> Available at <https://perma.cc/KU4J-SSC3>.

*U.S. Agricultural Growth*, U.S. DEP'T OF AGRIC., ECON. RES. SERV. (Jan. 12, 2024).<sup>14</sup>

Today, glyphosate-based herbicides are the most used crop protection tools in the United States. See 91 Fed. Reg. at 8703; *The Danger China Poses to American Agriculture Before the Comm. On Agriculture House of Representatives*, 118th CONG. 44 (2024)<sup>15</sup> [hereinafter “*The Danger China Poses*”] (Statement of Nova J. Daly, Senior Public Policy Advisor, Wiley Rein LLP); *A Future Without Glyphosate: Assessing the Impacts and Costs to Agriculture and the Environment* 1, AIMPOINT RES. (June 2023).<sup>16</sup> As such, “glyphosate-based herbicides are a cornerstone of this Nation’s agricultural productivity and rural economy, allowing United States farmers and ranchers to maintain high yields and low production costs while ensuring that healthy, affordable food options remain within reach for all American families.” 91 Fed. Reg. at 8703. The benefit they provide to farmers and consumers cannot be overstated. See, e.g., Blake Hurst, *Roundup Lawsuits Pose a Threat to My Missouri Farm*, WALL ST. J. (Sept. 13, 2024).<sup>17</sup>

In fact, U.S. farming production could not continue at current levels *without* glyphosate. 91 Fed. Reg. at 8703. Other herbicides are not substitutes. *Id.* (“There is no direct one-for-one chemical alternative

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<sup>14</sup> Available at <https://perma.cc/5VSJ-4M9H>.

<sup>15</sup> Available at <https://perma.cc/C5B9-2YBT>.

<sup>16</sup> Available at <https://perma.cc/658R-4B5J>.

<sup>17</sup> Available at <https://perma.cc/JA6W-P2KV>.

to glyphosate-based herbicides.”). As the President of the United States recently found:

Lack of access to glyphosate-based herbicides would critically jeopardize agricultural productivity, adding pressure to the domestic food system, and may result in a transition of cropland to other uses due to low productivity. Given the profit margins growers currently face, any major restrictions in access to glyphosate-based herbicides would result in economic losses for growers and make it untenable for them to meet growing food and feed demands.

*Id.* In terms of crop safety, efficacy, cost, and environmental impact, glyphosate stands alone—rightly being described as a “once-in-a-century herbicide.” Stephen O. Duke & Stephen B. Bowles, *Glyphosate: A Once-in-a-Century Herbicide*, 64 PEST MGMT. SCI. 319 (2008).<sup>18</sup>

## **II. The U.S. Glyphosate Market Primarily Consists of Monsanto and Chinese Suppliers.**

Monsanto is the only domestic producer of technical glyphosate, the active ingredient in its name-brand Roundup products. See Margy Eckelkamp, *Legal Battles and Study Reaction Continue to Spotlight Glyphosate’s Uncertain Future*, AGWEB (Apr. 8, 2025)<sup>19</sup>; 91 Fed. Reg. at 8703. Monsanto mines elemental phosphorous in Soda

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<sup>18</sup> Available at <https://perma.cc/AFY8-QGHM>.

<sup>19</sup> Available at <https://perma.cc/967N-SGYS>.

Springs, Idaho, formulates the technical glyphosate in Muscatine, Iowa, and completes production of finished Roundup in Luling, Louisiana. Eckelkamp, *supra*.

When Monsanto's patent protection expired in 2000, the result was a massive influx of generic glyphosate producers. See Charles Benbrook, *Trends in Glyphosate Herbicide Use in the United States and Globally* 10, 28:3 ENV'T SCIS. EUROPE (2016).<sup>20</sup> Monsanto's parent company, Bayer, still produces approximately 30 to 40 percent of the world's glyphosate supply. See *Glyphosate Market Growth Analysis, Dynamics, Key Players and Innovations, Outlook and Forecast 2026-2032*, INTELMARKET RES. (Jan. 8, 2026)<sup>21</sup> [hereinafter "*Glyphosate Market Growth Analysis*"]; Patrick Thomas, *Farmers' Favorite Weedkiller Nears Its End, Bayer Warns*, WALL ST. J. (Apr. 14, 2025).<sup>22</sup> And Monsanto still occupies between 20 and 25 percent of the U.S. market for agricultural glyphosate-based herbicides. See *Glyphosate Industry Analysis in the USA 2025 to 2035*, FACT.MR (last updated Nov. 11, 2025).<sup>23</sup>

But since 2000, Chinese companies have gained a dominant position in the market, producing between 60 and 70 percent of the world's glyphosate supply. See *Glyphosate Market Growth Analysis, supra*; *The Danger China Poses, supra*, at 44 (Statement of Nova J. Daly, Senior Public Policy Advisor, Wiley Rein LLP); *Glyphosate Market (Application: Genetically Modified [GM] Crops and Conventional Crops) - Global Industry Analysis, Size, Share, Growth, Trends, and Forecast, 2021-2031*, TRANSPARENCY

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<sup>20</sup> Available at <https://perma.cc/PJ8F-2ELW>.

<sup>21</sup> Available at <https://perma.cc/E47P-KNKN>.

<sup>22</sup> Available at <https://perma.cc/6F69-PL9V>.

<sup>23</sup> Available at <https://perma.cc/K62V-SSW3>.

MARKET RES. (Feb. 2022).<sup>24</sup> And today China controls a huge portion of the U.S. market. *USDA Agri-Food Supply Chain Assessment: Program and Policy Options for Strengthening Resilience 7*, U.S. DEPT OF AGRIC. (Feb. 2022) (discussing that as of 2022, “China provides more than 70% of [U.S.] imports of several pesticide ingredients,” including “glyphosate”).<sup>25</sup> As such, Monsanto and Chinese companies are the major players in the U.S. market. Patricia Weiss & Ludwig Burger, *Bayer Tells US It Could Halt Roundup Weedkiller Sales over Legal Risks*, REUTERS (Mar. 7, 2025)<sup>26</sup>; Thomas, *supra* (noting that if Monsanto exits the market, that “would leave U.S. farmers reliant on imported glyphosate from China”).

### **III. Continued Tort Liability Will Pave the Way for Chinese Companies to Control the U.S. Glyphosate Market and Production of Key Crops.**

As explained in the Brief for Petitioner, the International Agency for Research on Cancer’s misguided decision has resulted in a flood of failure-to-warn litigation alleging that Roundup caused plaintiffs’ cancers. *See* Petitioner’s Brief at 18; *see also* *Schaffner v. Monsanto Corp.*, 113 F.4th 364, 373-74 (3d Cir. 2024). This tidal wave, combined with courts’ failure to properly apply FIFRA’s uniformity provision, has already forced Monsanto to remove glyphosate from its consumer version of Roundup. *See* Petitioner’s Brief at 3, 52-53. If this Court doesn’t reverse the decision below and hold that FIFRA’s

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<sup>24</sup> Available at <https://perma.cc/3SAQ-ZHLP>.

<sup>25</sup> Available at <https://perma.cc/233Q-6RDY>.

<sup>26</sup> Available at <https://perma.cc/798E-W7GX>.

uniformity provision means what it says, what comes next is obvious: Monsanto will be forced to remove glyphosate from the agricultural version of Roundup upon which farmers depend.

But the glyphosate revolution in farming cannot be undone. Without the agricultural version of Roundup, U.S. farmers will likely turn exclusively to Chinese generics. Weiss & Burger, *supra*; Thomas, *supra*.

**A. Continued failure-to-warn tort liability is likely to eliminate U.S.-made glyphosate.**

Monsanto has shelled out billions in litigation and settlement costs related to Roundup, with most cases filed in Missouri state courts. *See* Adrià Calatayud et al., *Bayer Shares Plunge After U.S. Court Defeat in Roundup Case*, WALL ST. J. (Mar. 24, 2025)<sup>27</sup>; *Bayer AG Financial Statements 2024* at 27 (Mar. 5, 2025).<sup>28</sup> Monsanto reported that as of January 31, 2025, it had faced approximately 181,000 Roundup-based lawsuits. *See Bayer AG Financial Statements 2024, supra*, at 27. As a result, the CEO of Bayer AG has stated that the company is barely breaking even on Roundup and taking between \$2 billion and \$3 billion in losses on the product every year. *See* Thomas, *supra*.

In March 2025, Bayer announced that it was considering pulling Roundup from the market due to its losses from massive tort judgments. *Id.* This announcement came after the company had already eliminated glyphosate from its residential products in 2023 specifically because of litigation risk. *See*

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<sup>27</sup> Available at <https://perma.cc/75K3-PDF7>.

<sup>28</sup> Available at <https://perma.cc/TQ2J-W37E>.

*Managing the Roundup Litigation*, BAYER (last updated Feb. 23, 2026).<sup>29</sup>

If tort litigation continues against Roundup at this rate, the inevitable consequence will be the elimination of the sole U.S. producer of technical glyphosate.

**B. Chinese companies will fill the void.**

Once Monsanto buckles under the weight of compliance with a 50-state tort regime, Chinese companies will happily fill the void. And they will do so with an economic edge because they will not pay the “tort tax”—which includes costs to install safety measures to prevent tort lawsuits, litigation costs, and massive U.S. tort judgments. *Leveling the Playing Field and Protecting Americans: Holding Foreign Manufacturers Accountable: Hearing Before the Subcomm. On Admin. Oversight and the Courts of the Comm. on the Judiciary*, 111th CONG. 8 (2009)<sup>30</sup> [hereinafter “*Leveling the Playing Field*”] (statement of Victor E. Schwartz, Esq., Partner, Shook, Hardy & Bacon, LLP, on behalf of the Institute for Legal Reform, U.S. Chamber of Commerce)); *see also* Jessica Shelton, *Note & Comment, Defective Products in a Defective System: Legislation Designed to Level the Playing Field in International Trade*, 16 ROGER WILLIAMS U. L. REV. 171, 188 (2011); Stephen Gieger, *Comment, Chinese Drywall: Defending Class Actions in the United States and the Need for Arbitration*, 24 TUL. J. INT’L L. & COMP. L. 237, 247 (2015). That’s because these Chinese companies have the advantage of the “Great Legal Wall of China,” which inhibits litigation and judgment enforcement and enables

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<sup>29</sup> Available at <https://perma.cc/7XST-BBBR>.

<sup>30</sup> Available at <https://perma.cc/UCK5-4MK9>.

them to hide behind asset-starved shell companies. Jesse M. Fried & Ehud Kamar, *China and the Rise of Law Proof Insiders*, 48 IOWA J. CORP. L. 215, 226 (2023) (“China surrounds its residents and firms by a ‘Great Legal Wall’ that is virtually impossible to scale for U.S. authorities or investors.” (footnote omitted)); Jason Hsu, *Judgment Unenforceability in China*, 19 FORDHAM J. CORP. & FIN. L. 201, 221 (2013) (noting that “Chinese parties in China are essentially judgment-proof”). The only winners will be noncompliant Chinese companies. The losers will be U.S. farmers like Senator Bean and MSA members, consumers, and ironically, tort plaintiffs.

***i. The “Great Legal Wall of China” renders Chinese companies judgment-proof.***

Chinese companies can evade enforcement of tort judgments because of various legal barriers. Thus, they need not comply with U.S. tort law.

One prominent barrier is the Chinese court system. Chinese companies generally hold their assets in China or can easily move their assets to China. Stephanie Glynn, *Toxic Toys and Dangerous Drywall: Holding Foreign Manufacturers Liable for Defective Products—The Fund Concept*, 26 EMORY INT’L L. REV. 317, 344 (2012); *Leveling the Playing Field*, *supra*, at 16 (statement of Louise Ellen Tietz, Professor, Roger Williams University School of Law). Thus, to enforce judgments against these companies, tort plaintiffs must go to Chinese courts.

But Chinese courts only rarely enforce U.S. judgments. Fried & Kamar, *supra*, at 229 (noting they have done so only a handful of times and these decisions are not precedential); Shun-Hsiang Chen, *Note, Signed, Sealed, & Undelivered: Unsuccessful*

*Attempts of Foreign Judgment Recognition Between the U.S. and China*, 16 BROOK. J. CORP. FIN. & COM. L. 167, 183-85 (2022) (similar); Arthur Anyuan Yuan, *Enforcing and Collecting Money Judgments in China from a U.S. Judgment Creditor's Perspective*, 36 GEO. WASH. INT'L L. REV. 757, 758 (2004).<sup>31</sup>

One reason for this non-enforcement is that there is no treaty between the United States and China providing for mutual enforcement of judgments. Fried & Kamar, *supra*, at 228. Another reason is the rampant corruption in Chinese courts, where judges apply the law in accordance with the wishes of the Chinese Communist Party (“CCP”), often accept bribes, and favor local interests or personal relations. *Id.* at 226-27; Donald Clarke, *Judging China: The Chinese Legal System in U.S. Courts*, 44 U. PA. J. INT'L L. 455, 477-84 (2023); Gieger, *supra*, at 244 (“When civil actions involve manufacturers, who provide a substantial source of provincial employment, local civic officials pressure the courts against validating damages.” (citing Mo

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<sup>31</sup> As of December 2025, Chinese courts had only recognized or partially recognized six U.S. judgments. Guodong Du & Meng Yu, *December 2025 Update: List of China's Cases on Recognition of Foreign Judgments*, CHINA JUST. OBSERVER (Dec. 31, 2025), <https://perma.cc/37FM-L5FC>. Three of those judgments were against the same defendant, and in those cases the court only partially recognized the judgment, awarding damages but not punitive damages. Guodong Du & Meng Yu, *U.S. EB-5 Visa Fraud Judgments Partially Recognized in China: Recognizing Damages But Not Punitive Damages*, CHINA JUST. OBSERVER (July 31, 2022), <https://perma.cc/WHT4-ETP2>. Parties to all recognized cases were Chinese nationals or had Chinese origins. Donald Clarke, *Enforcing Chinese Judgments: A Response*, TRANSNAT'L LITIG. BLOG (Oct. 10, 2022), <https://perma.cc/5X72-RTM9>. All cases involved contract or contractual fraud causes of action. Du & Yu, *December 2025 Update, supra*.

Zhang, *International Civil Litigation in China: A Practical Analysis of the Chinese Judicial System*, 25 B.C. INT'L & COMP. L. REV. 59, 91 (2002)); Ellen Reinstein, *Finding A Happy Ending for Foreign Investors: The Enforcement of Arbitration Awards in the People's Republic of China*, 16 IND. INT'L & COMP. L. REV. 37, 53-54 (2005). In cases involving U.S. plaintiffs and Chinese defendants, the CCP will have a say, and the judge will inevitably favor the Chinese parties. Clarke, *supra*, at 484 (“In international cases, external interference almost always favors the local party.”).

As a result, Chinese companies can afford to ignore U.S. tort law and refuse to cooperate in litigation because U.S. default judgments will be difficult to enforce in Chinese courts. Gieger, *supra*, at 246 (noting the “offshore immunity” of Chinese manufacturers who hold assets in China “discourages [them] from allocating corporate profits towards quality controls or insurance, as their assets practically remain judgment proof” (quotation omitted)); Hsu, *supra*, at 208 & n.39; Glynn, *supra*, at 327 (noting that Chinese manufacturers’ ability to evade legal liability eliminates any financial incentives for them “to install preventative measures”) (citing Richard Posner, *A Theory of Negligence*, 1 J. LEGAL STUD. 29, 33 (1972)). For example, in the notorious Chinese drywall litigation, thousands of U.S. homeowners, who experienced adverse health effects and electrical issues in their homes from toxic drywall imported from China, sued a Chinese manufacturer of the drywall, among others. Matt Snyder & Bart Carfagno, *Chinese Product Safety: A Persistent Challenge to U.S. Regulators and Importers* 13, U.S.-CHINA ECON. & SEC. REV. COMM’N

(Mar. 23, 2017)<sup>32</sup>; Gieger, *supra*, at 248. But the Chinese manufacturer was extremely uncooperative and refused to appear in U.S. court. Snyder & Carfagno, *supra*, at 13. The court had to issue an order preventing the Chinese manufacturer from conducting business in the United States and exact a penalty equivalent to 25 percent of the company's profits if it continued to remain in contempt simply to force the company to appear. *Id.*; Gieger, *supra*, at 249-51.

The best results U.S. plaintiffs can often achieve against Chinese companies are grossly undervalued settlements. *See, e.g.*, Fried & Kumar, *supra*, at 236-37 & nn.131, 137; Hsu, *supra*, at 213 & n.79. While those settlements may provide some compensation, they provide little deterrence for malfeasant manufacturers.

***ii. Chinese companies often hide behind asset-less shell companies.***

Even if Chinese courts were to enforce U.S. tort judgments, Chinese debtors could easily avoid payment, and often do, by hiding in a web of asset-less shell companies. Hsu, *supra*, at 221 (“Chinese parties can easily hide within China itself by transferring assets between bank accounts.” (citation omitted)); Reinstein, *supra*, at 55-58 (discussing the difficulty of tracking down Chinese debtors’ assets and bank accounts); Zhang, *supra*, at 91 (noting the frequency with which Chinese judgment debtors will disappear

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<sup>32</sup> Available at <https://perma.cc/S7E5-ND4X>.

to avoid judgments and transfer their assets, including bank accounts, to undisclosed locations).

In fact, local governments, banks, and courts, motivated by local protectionism, may at times *assist* Chinese debtors in putting their assets beyond the reach of creditors. Reinstein, *supra*, at 55-57; Weixia Gu, *Judicial Review over Arbitration in China: Assessing the Extent of the Latest Pro-Arbitration Move by the Supreme People's Court in the People's Republic of China*, 27 WIS. INT'L L.J. 221, 261 & n.190 (2009); Jason Pien, *Creditor Rights and Enforcement of International Arbitral Awards in China*, 45 COLUM. J. TRANSNAT'L L. 586, 603 (2007). And plaintiffs are left with no recourse. Gieger, *supra*, at 246 (noting "China's penal law does not prohibit defendants from transferring assets during litigation to avoid creditors" (citing Yuan, *supra*, at 773))).

For example, in one infamous case, RevPower Limited obtained a \$9 million arbitral award against a Chinese company. Reinstein, *supra*, at 55. But when RevPower went to the Shanghai People's Court to enforce the award, the Court dragged its feet and declined to recognize the award for two years, giving the Chinese company time to transfer all its assets beyond the reach of RevPower. *Id.*; Gu, *supra*, at 261 n.190; *see also* Yuan, *supra*, at 776 & nn.92-93 (collecting examples of fraudulent conveyances by Chinese debtors to avoid judgments); Randall Peerenboom, *Seek Truth from Facts: An Empirical Study of Enforcement of Arbitral Awards in the PRC*, 49 AM. J. COMP. L. 249, 274-75, 277-78, 293 (2001) (collecting examples of fraudulent conveyances and the involvement of banks, judges, and local government to stop enforcement of awards).

As a result, “the current system incentivizes Chinese manufacturers to hide assets and ignore court orders so that even a default judgment in U.S. court will not result in actual loss.” Gieger, *supra*, at 247.

***iii. Other obstacles to tort actions against Chinese entities exist.***

Other obstacles inhibit successful legal actions against Chinese companies. Limits on personal jurisdiction, discovery, and service of process all help Chinese manufacturers hide behind the “Great Legal Wall of China.” Fried & Kamar, *supra*, at 226, 230-34; *see also* Glynn, *supra*, at 334-43. For example, service of process presents an initial, sometimes insurmountable hurdle. Fried & Kamar, *supra*, at 230; Snyder & Carfagno, *supra*, at 13-14; Glynn, *supra*, at 343. U.S. plaintiffs must use the Hague Service Convention to serve suits on Chinese entities with no U.S.-based representatives. Snyder & Carfagno, *supra*, at 13. But this form of service is extremely slow, burdensome, and even requires the cooperation of Chinese government officials, who have rejected service papers due to minor inaccuracies or a connection between the sued entity and the Chinese government. *Id.* at 13-14. These difficulties can prompt U.S. plaintiffs to instead “sue the easier target: the U.S. retailer, who will in turn struggle to recover from its own insurer, as well as the foreign manufacturer of the defective and injurious product.” Shelton, *supra*, at 188.

Another brick in the “Great Legal Wall of China” is the Foreign Sovereign Immunities Act of 1976, 28 U.S.C. §§ 1602-1611, which provides additional protection to firms that are “organ[s] of” the

Chinese government—an admittedly broad category considering the Chinese government’s extensive reach. *Id.* §§ 1603(b)(2), 1604. Private manufacturers may increasingly fall within this category if they do not already. Jerome Doyon, *CCP branches out into private businesses*, E. ASIA F. (Aug. 11, 2023).<sup>33</sup>

For example, Sinochem Holdings Co., Ltd., the largest Chinese agrochemical company and largest chemical enterprise in the world, is owned by the Chinese government. *Sinochem Holdings Inaugurated as World’s Largest Chemical Enterprise with Operating Revenue of over USD 150 Billion*, AGRONEWS (May 12, 2021)<sup>34</sup>; Hepeng Jia, *ChemChina and Sinochem Will Combine Their Agricultural Assets*, CHEM. & ENG’G NEWS (Jan. 8, 2020).<sup>35</sup> The company was the result of a 2021 merger between ChemChina, which acquired the Swiss pesticide giant Syngenta in China’s biggest foreign acquisition in 2016, and Sinochem. James MacDonald, *Mergers and Competition in Seed and Agricultural Chemical Markets*, AMBER WAVES, U.S. DEP’T OF AGRIC., ECON. RES. SERV. (Apr. 3, 2017)<sup>36</sup>; Geoff Colvin, *China Is Unloading its Biggest Ever Foreign Acquisition*, FORTUNE (July 1, 2021)<sup>37</sup>; Wayne Ma, *5 Things to Know About ChemChina*, WALL ST. J. (Feb. 3, 2016).<sup>38</sup> The company is a major supplier in the U.S. market. *Glyphosate Industry Analysis in the USA 2025 to 2035, supra*. But the company will undoubtedly be

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<sup>33</sup> Available at <https://perma.cc/Z42X-R6F6>.

<sup>34</sup> Available at <https://perma.cc/PQ99-ANME>.

<sup>35</sup> Available at <https://perma.cc/DTR4-AQNG>.

<sup>36</sup> Available at <https://perma.cc/A4U3-2CSQ>.

<sup>37</sup> Available at <https://perma.cc/G39D-WZEL>.

<sup>38</sup> Available at <https://perma.cc/ET6W-TWMM>.

protected from any lawsuits under the Foreign Sovereign Immunities Act.

Missouri has encountered the “Great Legal Wall of China” in its lawsuit against several Chinese defendants for their actions during the COVID-19 pandemic. *Missouri ex. rel Bailey v. People’s Republic of China et al.*, 769 F. Supp. 3d 877, 881 (E.D. Mo. 2025). While some defendants were clearly governmental entities, others were legally separate but nonetheless determined to be “organ[s] of” the Chinese government. *Missouri ex rel. Bailey v. People’s Republic of China*, 90 F.4th 930, 935 (8th Cir. 2024) (quoting 28 U.S.C. § 1603(b)(2)). All defendants failed to appear in court or answer after service. *Missouri ex. rel Bailey*, 769 F. Supp. 3d at 881. The District Court for the Eastern District of Missouri found that Missouri established its right to relief for one tort count and issued a default judgment against the Chinese defendants. *Id.* at 882. The Court then ordered the Chinese defendants to pay over \$24 billion to the State of Missouri. *Id.* The Chinese defendants have since refused to pay and have now brought a retaliation suit in the Intermediate Court of Wuhan against Missouri seeking \$50.5 billion. Press Release, Catherine L. Hanaway, Mo. Att’y Gen., *China Declares Missouri an Economic and Reputational Menace in New Legal Action* (last visited Feb. 24, 2026).<sup>39</sup> Thus, it is unclear whether Missouri will ever see even a fraction of its \$24 billion judgment.

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Tort law does not create just results or universal deterrence in the arena of an essential herbicide. Because Chinese companies face minimal

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<sup>39</sup> Available at <https://perma.cc/D32M-M4QS>.

threats of enforcement, they need not account for the “tort tax”—*i.e.* the costs to offset compliance with a 50-state tort law regime, potential litigation, and judgments—in their pricing and can undercut U.S.-based companies’ pricing. Shelton, *supra*, at 188 (citing and quoting *Leveling the Playing Field, supra*, at 8 (statement of Victor E. Schwartz, Esq., Partner, Shook, Hardy & Bacon, LLP, on behalf of the Institute for Legal Reform, U.S. Chamber of Commerce); *see also* Gieger, *supra*, at 247. U.S. manufacturers are the “easier target[s]” of U.S. tort plaintiffs and will inevitably bear greater risks of lawsuits and greater costs than their Chinese counterparts. Shelton, *supra*, at 188; *see also* Gieger, *supra*, at 247; Hao Huang, *Note, Maximizing Chinese Imports’ Compliance with United States Safety and Quality Standards: Carrot and Stick from Whom?*, S. CAL. INTERDISC. L.J. 131, 152 (2008). Here, tort law merely puts U.S. manufacturers and other compliant actors “at a competitive disadvantage” while allowing potentially dangerous products to thrive on the market. Shelton, *supra*, at 188; *see also* Gieger, *supra*, at 247.

#### **IV. The Loss of Domestically Produced Glyphosate Could Frustrate the Purposes of FIFRA and Create a National Security Crisis.**

If the United States lost its sole domestic glyphosate supplier and China completely controlled the U.S. market for glyphosate, the first-order impact would be mass reliance on potentially more dangerous and less reliable glyphosate products, undermining the purpose of FIFRA.

The purpose of FIFRA is to “prevent unreasonable adverse effects on the environment,” which include “(1) any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, or (2) a human dietary risk from residues that result from a use of a pesticide in or on any food inconsistent with the standard under section 346a of title 21.” 7 U.S.C. §§ 136a, 136(bb). In short, Congress’s key objective was to protect consumers and the environment. To effectuate this purpose, FIFRA is not a mere “labeling law”; it is “a comprehensive regulatory statute.” *Ruckelshaus*, 467 U.S. at 991 (citation omitted).

But a glyphosate market completely dominated by Chinese producers could undermine this purpose. In a world without any U.S.-based producers, American farmers may have no choice but to purchase glyphosate from Chinese suppliers, regardless of product quality. Defective glyphosate could lead to crop destruction, serious food supply problems, and adverse health outcomes for American consumers.

These consequences are far from speculative. China has more relaxed product safety standards than the United States. Snyder & Carfagno, *supra*, at 3, 9, 19; Glynn, *supra*, at 328. And Chinese manufacturers notoriously fail to comply with these standards to save money—even if it results in dangerous or defective products. Glynn, *supra*, at 328-30; *id.* at 333 (noting that “Chinese manufacturers are intentionally manipulating the quality of the product to bypass third-party quality assurance tests” and “are also deliberately substituting inferior products” (citing PAUL MIDLER, POORLY MADE IN CHINA: AN INSIDER’S ACCOUNT OF THE TACTICS BEHIND CHINA’S

PRODUCTION GAME 198 (2009))). Chinese government officials will often accept bribes from manufacturers and turn a blind eye to defective products leaving Chinese ports for the United States. *Id.* at 328-29. The dangers of these products thereby fall on importers—namely, the United States—and eventually U.S. consumers who may tragically discover the dangers themselves. *Id.* at 330-31. The effects can be catastrophic.

For example, as described above, toxic Chinese drywall was used in the construction of an estimated 100,000 U.S. homes between 2004 and 2007. Snyder & Carfagno, *supra*, at 13. As a result, homeowners across 44 states experienced “asthma attacks, frequent nosebleeds, difficulty breathing, and persistent headaches” as well as electrical issues. *Id.* (citation omitted). Property casualty consultants estimated the total costs from the toxic drywall “to be as high as \$25 billion.” *Id.* (citation omitted). Similarly, in 2007, an estimated 4,150 U.S. pets died after eating Chinese-made pet food that contained a toxic chemical. Glynn, *supra*, at 329; Snyder & Carfagno, *supra*, at 3, 15. Another wave of contaminants in Chinese manufactured pet products resulted in reported deaths of 1,140 U.S. dogs. Snyder & Carfagno, *supra*, at 15. In late 2015 and early 2016, Chinese-manufactured hoverboards used by U.S. consumers caught fire in 24 different States, “resulting in more than \$2 million in damage, including the destruction of two homes and an automobile.” *Id.* at 9 (quotation omitted).

Chinese consumers also are not immune from product defects. Beginning in December 2007, the Chinese government knew of dangerous, tainted milk powder available to Chinese consumers. Glynn, *supra*,

at 329. But not only did the government allow the product to remain on the market, it actively *suppressed* any information on the internet of the defective product to avoid a scandal in advance of the 2008 Beijing Olympics. *Id.* Tragically, six children died, and hundreds of others became ill from this powder. *Id.*

Similar product defects could easily occur in a world in which Chinese-manufactured glyphosate fills the shelves. Thus, it is imperative to keep Monsanto—a company that complies with U.S. regulation and enforcement—open for business.

But frustration of FIFRA’s purposes, serious as those effects would be, are only the first step in the causal chain. Loss of domestic glyphosate suppliers also poses a serious national security threat. *The Danger China Poses, supra*, at 10 (Statement of Hon. Kristi L. Noem, Governor, State of South Dakota) (“Let me be clear. China is buying up our entire food supply chain. When America can’t feed itself and relies on another country to feed us, it becomes a national security issue. The country that feeds us controls us.”); *id.* at 50-51 (Statement of Hon. Kip Tom, former U.S. Ambassador to the United Nations Agencies Food and Agriculture) (discussing the threat to U.S. food security and national security from offshoring crop protection products, like weedkillers, to China). In fact, as the President of the United States recently found, any further reduction in the domestic supply of glyphosate “would gravely threaten American national security.” 91 Fed. Reg. at 8703.

If China controlled the U.S. glyphosate and glyphosate-based weedkiller markets, it could easily withhold those products, leading immediately to

reduced yields and a food supply crisis. *The Danger China Poses, supra*, at 51 (Statement of Hon. Kip Tom, Managing Member and Chief Executive Office, Tom Farms, LLC; Former U.S. Ambassador to the United Nations Agencies Food and Agriculture) (discussing how if China cut off U.S. supplies, crop “yields will decrease, requiring substantially more land to maintain current production levels”; “[t]he economic impact to farmers, consumers, and our nation would have devastating consequences”; and the result would be “higher consumer prices and food insecurity in United States and around the world”). This would severely impact the Missouri farms of Senator Bean and MSA members. China has a history of withholding products in other industries. *See, e.g., Missouri ex. rel Bailey*, 769 F. Supp. 3d at 887 (finding that China hoarded and limited exports of medical supplies to the United States during the COVID-19 pandemic); Yoko Kubota, *How China’s Chokehold on Drugs, Chips and More Threatens the U.S.*, WALL ST. J. (Nov. 4, 2025) (discussing how China has previously blocked exports of mature semiconductor chips in retaliation and could do so for other products)<sup>40</sup>; Jon Emont, et al., *China Is Choking Supply of Critical Minerals to Western Defense Companies*, WALL. ST. J. (Aug. 3, 2025) (discussing how China blocked critical mineral exports to Western defense manufacturers).<sup>41</sup>

Or China could simply raise prices, put farmers out of business, and achieve the same outcome. The United States would then become reliant on other countries, including China, for food products, which would also put U.S. consumers in danger. These risks

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<sup>40</sup> Available at <https://perma.cc/V7SV-7RH3>.

<sup>41</sup> Available at <https://perma.cc/NRY9-XJAC>.

are especially heightened given China's infringement into other U.S. agricultural sectors. *See generally* Lauren Greenwood, *China's Interests in U.S. Agriculture: Augmenting Food Security Through Investment Abroad*, U.S. CHINA ECON. & RES. REV. COMM'N (updated June 13, 2022)<sup>42</sup>; *The Danger China Poses, supra*.

### CONCLUSION

Domestically produced glyphosate-based herbicides are "crucial to the national security and defense, including food supply security, which is essential to protecting the health and safety of Americans." 91 Fed. Reg. at 8703. Any further reliance on a foreign adversary, namely China, leaves the United States vulnerable to future attacks. *Id.* This Court should hold that failure-to-warn state tort actions, which endanger the domestic glyphosate supply, are preempted. *See Am. Ins. Ass'n v. Garamendi*, 539 U.S. 396, 413 (2003); *Zschernig v. Miller*, 389 U.S. 429, 440-41 (1968); *Doe v. Exxon Mobil Corp.*, 473 F.3d 345, 365 (D.C. Cir. 2007) (Kavanaugh, J., dissenting).

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<sup>42</sup> Available at <https://perma.cc/4VDB-Q5WW>.

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