

No. 24-1068

IN THE
Supreme Court of the United States

MONSANTO COMPANY,

Petitioner,

v.

JOHN L. DURNELL,

Respondent.

On Writ of Certiorari to the
Missouri Court of Appeals

BRIEF OF *AMICI CURIAE* NAOMI ORESKES AND
ALEXANDER A. KAUROV IN SUPPORT OF
RESPONDENT

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INTEREST OF *AMICI CURIAE*¹

Amicus curiae Dr. Naomi Oreskes is Professor of the History of Science and Affiliated Professor of Earth and Planetary Sciences at Harvard University with a longstanding interest in scientific integrity, what makes scientific work reliable, and public trust in science. *Amicus curiae* Dr. Alexander A. Kaurov (along with Dr. Oreskes, “*amici*”) is an astrophysicist and interdisciplinary researcher focused on science–society relations and computational social sciences. Together, *amici* examine scientific integrity and public perception of science. Their recent research has focused on glyphosate, tracing how industry-linked science enters regulatory, academic, and public arenas.

Amici are the authors of “*The afterlife of a ghost-written paper: How corporate authorship shaped two decades of glyphosate safety discourse*,” ENV'T. SCI. & POL'Y. 171 (2025) (“Oreskes & Kaurov”). As explained in more detail below, this paper investigated how a study published in *Regulatory Toxicology and Pharmacology* in 2000 was used as the basis for the now disproven premise that glyphosate does not pose a health risk to humans, even after it was revealed to have been ghost-written by Monsanto Company in 2017. See G.M. Williams, R. Kroes, & I.C. Munro, *Safety evaluation and risk assessment of the herbicide Roundup and its active ingredient, glyphosate, for humans*, REG. TOXICOLOGY & PHARM. 31 (2000) (“WKM2000”).

¹ Pursuant to Supreme Court Rule 37.6, *amici* state that no counsel for any party authored this brief in whole or in part, and no entity or person aside from *amici* or their counsel made any monetary contribution intended to fund the preparation or submission of this brief.

It was not until after *amici's* 2025 article was published that the journal retracted WKM2000, based on “serious ethical concerns regarding the independence and accountability of the authors.” Retraction notice to “Safety evaluation and risk assessment of the herbicide roundup and its active ingredient, glyphosate, for humans” [Regul. Toxicol. Pharm. 31 (2000) 117–165], REG. TOXICOLOGY & PHARM. 165 (2026) 106006 (hereinafter, “Retraction Notice”). But as analyzed by *amici* in their paper, in the twenty-five years before WKM2000 was retracted, including in the seven years after its true authorship was revealed, the paper was relied on “uncritically” by the “vast majority” of policy and governance documents that cited to it. Oreskes & Kaurov, at 8. WKM2000 presents a cautionary tale about the limits of the statutory scheme that led to glyphosate’s widespread and unlimited use, and an illustration of the importance of litigation that led to the discovery of the fraud.

SUMMARY OF ARGUMENT

The Petitioners’ argument in this case centers around a deceptively simple premise: because the Environmental Protection Agency (“EPA”) followed the Federal Insecticide, Fungicide, and Rodenticide Act’s (“FIFRA”) mandated procedure before registering a pesticide, in this case, glyphosate, Respondent’s state law failure-to-warn claim must be preempted. FIFRA requires EPA to determine whether a pesticide, when used as intended, will cause “unreasonable adverse effects on the environment,” including “any unreasonable risk to man.” 7 U.S.C. § 136a(c)(5); *id.* § 136(bb); 40 C.F.R. § 152.112(e). Petitioners argue that, after following the process laid out by the statute, EPA concluded that

glyphosate (a key ingredient in Petitioners’ product, Roundup) does not pose unreasonable health risks to humans, and that finding bars Respondent’s state law failure to warn claim.

What Petitioners fail to acknowledge, however, is that EPA’s conclusion was based in large part on WKM2000, a paper that was secretly ghost-written by Petitioners and recently retracted by its original publisher. In addition to being considered a “cornerstone” of EPA’s conclusion that glyphosate was safe,² WKM2000 became deeply entrenched in academia and policy-making over the two decades after it was published, improperly influencing much of the scientific literature that came after it. The discovery of the paper’s true authorship was only made possible through a separate multidistrict litigation concerning Roundup products in 2017—precisely the type of litigation that Petitioners now seek to foreclose.

More than 20 years ago, this Court held that state failure-to-warn laws such as the law at issue here and in the multidistrict litigation, so long as they are “consistent” with FIFRA, are not preempted by the statute. *Bates v. Dow AgroSciences LLC*, 544 U.S. 431, 447 (2005). These types of claims play a critical role in protecting the public and “aid, rather than hinder, the functioning of FIFRA” by “serv[ing] as a catalyst” in the evolution of pesticide labels over time. *Id.* at 451. Missouri’s statute worked precisely as this Court envisioned it should in *Bates*. The circumstances of WKM2000 illustrate perfectly why

² Hiroko Tabuchi, *A Study Is Retracted, Renewing Concerns About the Weedkiller Roundup*, N.Y. TIMES, Jan. 2, 2026, <https://tinyurl.com/26usckex> (last visited Mar. 27, 2026).

this Court should not broaden FIFRA's preemption provision in a way that would cut off future similar claims. Without state court litigation, it is far from clear whether the paper's origins would ever have been discovered.

FIFRA does not provide EPA with the tools to directly analyze or study pesticides, either through its own longitudinal studies or laboratory tests. Rather, EPA relies heavily on peer-reviewed research in respected journals to do what it cannot: scrutinize available science and question its accuracy, particularly as science changes over time. But this pathway to good science can be flawed, and sometimes intentionally distorted, as the WKM2000 paper demonstrates.

As *amici* illustrate in their own paper published in 2025, WKM2000's "half-life" continued for years: as of 2025, "[i]n academic literature, WKM2000 [was] in the top 0.1 % by citation count among papers discussing glyphosate, indicating broad uptake, with minimal acknowledgment of conflict of interest." Kaurov & Oreskes, at 6. *Regulatory Toxicology and Pharmacology* did not retract WKM2000 until after *amici's* paper was published. But by that point, the damage was done: the paper had already formed part of the basis for EPA's incorrect conclusions about glyphosate, revealing the perverse incentives for industry actors to corrupt FIFRA's registration scheme.

As the story of glyphosate demonstrates, litigation provides a necessary counterbalance to the industry's underlying motivation to maximize profits by taking advantage of EPA's passivity in the registration process. Discovery in a lawsuit is a key

tool for individuals—and the EPA—to learn about facts the industry would rather remain hidden. It can also motivate the industry to disclose facts *before* litigation materializes, to reduce the threat of liability. Either way, this information can be used to correct and update EPA’s review of registrations under FIFRA, pushing EPA closer to the role Congress expected EPA to fulfill.

In other words, without the lawsuit that led to the discovery of the true origins of WKM2000 in 2017, the paper would still be published today, and without the instant lawsuit—and others like it finding Monsanto liable—individuals injured by Monsanto’s products would have little to no recourse. Broadening FIFRA’s preemptive effect beyond *Bates* would only underscore and entrench perverse industry incentives to hide behind their own corporate malfeasance and place their profits above human health and safety. This would undermine, rather than serve, Congress’ intent in passing FIFRA.

ARGUMENT

I. FIFRA Relies on EPA Receiving Unbiased, Trustworthy Science.

To register a pesticide product under FIFRA, EPA must determine whether the product, when used in accordance with its intended function and commonly recognized practice, will cause “unreasonable adverse effects on the environment,” including “any unreasonable risk to man.” 7 U.S.C. § 136a(c)(5); *id.* § 136(bb); 40 C.F.R. § 152.112(e). FIFRA is designed to meet this task through EPA review of submittals by the entity seeking registration of a pesticide. EPA is not equipped, however, to root

out academic dishonesty or incorrect science that is not known at the time of submittal.

Pesticides, whether or not they are ultimately determined to be harmful to the environment, are allowed to remain in use pending extended review processes. Once a pesticide is registered, cancellation by EPA is rare, absent the manufacturer itself providing new evidence that calls into question whether the pesticide has been properly registered.

A. Applicants Are Responsible for Providing Information and Data to EPA.

FIFRA requires the applicant seeking registration to supply certain categories of data for review. 40 C.F.R. § 152.50(f)(2). In doing so, the applicant is required to “flag” any studies demonstrating the pesticide’s potential to cause adverse effects on the environment. *Id.* §§ 152.50(f)(2)(iii); 158.34. Should EPA determine that the product will not cause such effects and register the product, the same party, now a registrant, bears an ongoing burden to alert EPA to any “additional factual information regarding unreasonable adverse effects” on human health or the environment. 7 U.S.C. § 136d(a)(2); 40 C.F.R. § 152.125. If the applicant fails to provide accurate or honest information, there is little EPA can do unless it discovers outside of the regulatory scheme that “flags” were missed or information misrepresented.

This gap in FIFRA’s structure is compounded by a lack of transparency. Although scientific standards are imposed on the format and content of the studies submitted by the applicants, those standards focus primarily on lab safety and quality

assurance. 40 C.F.R. §§ 152.50(f)(2); 158.32(c); 160.12. Independent authorship, peer review, and disclosure of conflicts are not required, leaving EPA to rely on the academic peer review and publication process to vet those aspects of scientific literature.

Moreover, unless the pesticide contains a new active ingredient or changed use pattern, the public does not receive an opportunity to weigh in on the data used to support a pesticide's registration until after the pesticide is registered. 7 U.S.C. § 136a(c)(4).

B. FIFRA's Registration Renewal Provisions Do Not Provide Needed Protections.

EPA must consider whether to renew a pesticide's registration fifteen years after it was registered and every fifteen years thereafter. *Id.* §§ 136a(g)(1)(A)(iii)(II); 136a(g)(1)(A)(iv). Throughout the review process, the pesticide's registration remains in effect unless and until EPA suspends or cancels it. *Id.* § 136a(g)(1)(A)(v). This allows pesticides with adverse effects on the environment to remain in use while EPA decides whether to suspend or cancel them.

EPA may also suspend a registration, effective immediately, if it finds that suspension is "necessary to prevent an imminent hazard." *Id.* § 136d(c)(1)-(3). However, EPA has only exercised its emergency suspension authority once in the last forty years. Press Release, U.S. Env't Protection Agency, *EPA Issues Emergency Order to Stop Use of Pesticide Dacthal to Address Serious Health Risks* (Aug. 6, 2024), <https://tinyurl.com/456kbrzp> (last visited March 31, 2026).

II. Glyphosate's History Reveals the Weaknesses in FIFRA's Registration Scheme.

FIFRA is driven by information that EPA obtains from applicants for pesticide registration. The most effective “check” on the validity of that information is rigorous academic vetting of the science underlying registration. Because EPA does not test every chemical itself, and relies on peer reviewed work by others, it must be able to trust the science it is presented.

Impartiality matters. Both science and law are predicated on assumptions of objectivity in fact-finding. Potential conflicts of interest must be fully disclosed, to place those who consume and rely on scientific research on notice of potential bias. No case is more apt to demonstrate the problems with this system than glyphosate. It is far too easy to hide partiality behind a façade of independence in academic literature, and the consequences of doing so on EPA's ability to administer FIFRA can be long-lasting.

A. Monsanto Ghost Wrote A Foundational Publication Ostensibly Establishing the Safety of Glyphosate.

A significant breach of the core principles of scientific integrity occurred in 2000, with publication of WKM2000, a ghost-written article in a prominent peer-reviewed journal, *Regulatory Toxicology and Pharmacology*. WKM2000, at 117-165. The article, “Safety evaluation and risk assessment of the herbicide Roundup and its active ingredient, glyphosate, for humans,” was later revealed to have been authored by employees of Monsanto, the

company that manufactures the glyphosate-based herbicide Roundup. Kaurov & Oreskes, at 1. Ghost-writing—a practice in which the authors listed on a scientific publication are not the actual authors—is a form of scientific fraud. *Id.* It “pollutes science and medicine ‘with corporate marketing designed to look like independent science.’” *Id.* at 2.

WKM2000’s corporate authorship was not exposed until seventeen years later, during civil litigation against Monsanto. *Id.* at 1. Despite the discovery of WKM2000’s fraudulent authorship in 2017, it was not formally retracted from the scientific literature until 2025 (with the actual published retraction coming in 2026). Retraction Notice.³ In the intervening years, WKM2000 continued to be heavily cited in the academic literature on glyphosate and relied upon in regulatory and policy-making contexts. Kaurov & Oreskes, at 6-8.

WKM2000 purports to be a “comprehensive safety evaluation and risk assessment” of then-available data concerning the human health risks of glyphosate. WKM2000, at 117. Using a weight-of-evidence approach, the article claims to “confirm[] the safety of glyphosate and Roundup as nongenotoxic,” stating that “the balance of the credible data . . . conforms to the fact that glyphosate is noncarcinogenic.” *Id.* at 141. Based on this determination and evaluations of non-carcinogenic human health risks, WKM2000 confidently concludes that under expected conditions of use, “there is no potential for Roundup herbicide to pose a health risk to humans.” *Id.* at 160.

³ The Retraction Notice was made available online December 5, 2025, in advance of issue publication.

In February 2026, however, WKM2000 was formally retracted by its publishing journal’s Editor in Chief following a “thorough investigation into the circumstances surrounding [its] authorship and content.” Retraction Notice. The Retraction Notice cites violations of the publisher’s Policy on Article Withdrawal, along with the Committee on Publication Ethics (COPE) Ethical Guidelines for Peer Reviewers, in explaining the retraction. In particular, the Retraction Notice cites “lack of authorial independence,” “misrepresentation of contributions,” and “questions of financial compensation,” concerning the undisclosed contributions of Monsanto employees as co-authors of WKM2000 and Monsanto’s potential financial compensation of the three authors who were listed. As the Editor in Chief explains, “[t]his lack of transparency raises serious ethical concerns regarding the independence and accountability of the authors of this article and the academic integrity of the carcinogenicity studies presented.” *Id.* The potential financial compensation also “calls into question the apparent academic objectivity of authors in this publication.” *Id.*

The flaws of WKM2000 are not confined to the failure to disclose its true authors. Disclosure of conflicting interests serves a protective purpose: it provides notice that higher scrutiny may be warranted in reviewing the research, to guard against the heightened propensity for manipulation of data, deliberately flawed methodologies, and misportrayal of results. Indeed, the Retraction Notice cites methodological flaws—likely driven by the authors’ conflicts of interest—that further undermine WKM2000’s conclusions. Most notably, the article (while purporting to comprehensively survey

contemporaneous evidence), selectively cites certain unpublished studies conducted by Monsanto, while omitting other unpublished studies. *Id.* Such cherry-picking of data skews WKM2000's conclusions, presenting an inaccurate picture of glyphosate's human health risks.

None of this was accidental. Information later unearthed through discovery into the company's records revealed that Monsanto became aware of glyphosate's potential genotoxicity in the 1990s. Brief in Opposition for Respondent at 7, *Monsanto Co. v. Durnell*, No. 24-1068 (June 9, 2025). Monsanto hired a toxicologist to review those data, and that scientist recommended more studies. *Id.* Internal emails reveal that Monsanto instead resolved "to find/develop someone who is comfortable with the gene[o]tox[icology] profile of glyphosate/Roundup and can be influential with regulators." *Id.* at 8. Dr. Gary Williams—the "W" in WKM2000—was that person. He is listed as first author of the article, although it was in fact ghostwritten by Monsanto employees, including Dr. William Heydens. *Id.* These records divulge that WKM2000 was deliberately crafted by Monsanto to quash rising fears of Roundup's carcinogenicity, and intentionally published using "independent" scientists' names to create a veneer of legitimacy.

WKM2000 became "a cornerstone in the assessment of glyphosate's safety," Retraction Notice, with outsized impact and an enduring influence on subsequent research and regulatory decision making. As *amici* have demonstrated, WKM2000 is in the top 0.1% of scientific papers on glyphosate by citation count. Kaurov & Oreskes, at 6. The conventions of scientific publication therefore oblige subsequent

publications on glyphosate to cite WKM2000, which continues to inflate its profile in the scientific community. *Id.* at 8. This, in turn, augments WKM2000’s perceived authority by those tasked with making regulatory and policy decisions. *Id.* (“As WKM2000 ranks among the most cited papers in glyphosate literature, its influence cascades into regulatory decision-making.”).

B. EPA Relied on WKM2000 in its Review of Glyphosate.

Glyphosate was first registered for use in 1974.⁴ EPA initiated review proceedings in 2009—thirty-five years after glyphosate was first registered. *Supra* n. 6. Five years into its review, EPA decided to reexamine glyphosate’s carcinogenic potential and conducted a comprehensive review of the glyphosate cancer database, followed by review by the FIFRA Scientific Advisory Panel. *Id.* EPA solicited public comment on its human health and ecological risk assessments and its proposed interim registration review decision in December 2017 and May 2019, respectively.⁵ *Id.* Throughout this process, products

⁴ *Glyphosate*, U.S. Env’t Prot. Agency (May 9, 2025), <https://tinyurl.com/5bm2ewas>. The EPA confirmed glyphosate’s eligibility for registration renewal in 1993. *Reregistration Eligibility Decision: Glyphosate*, EPA-738-R-93-014, U.S. Env’t Protection Agency (Sept. 1993), <https://tinyurl.com/2ezrrhas>.

⁵ EPA concluded in February 2020 that glyphosate is not carcinogenic, and that exposure to glyphosate products does not pose risks to human health, but those conclusions did not stand up to judicial review. Citing a lack of substantial evidence, the United States Court of Appeals for the Ninth Circuit vacated the human health portion of the February 2020 decision in June

containing glyphosate have been marketed, sold, and used without restriction.⁶

Given its seemingly well-earned profile, EPA relied on WKM2000 when evaluating glyphosate's carcinogenic potential under the FIFRA registration renewal framework. Resp'ts Opp'n Br. at 8. EPA continued to cite WKM2000 and classify it as from the "open literature" within the Glyphosate Registration Review docket. EPA's Office of Pesticide Programs, *Revised Glyphosate Issue Paper: Evaluation of Carcinogenic Potential* (Dec. 12, 2017), <https://tinyurl.com/5dc4xfjt>. In other words, the agency charged with evaluating whether Roundup poses an unreasonable risk to human health or the environment continued to rely on fraudulently generated and methodologically flawed research generated by the manufacturer of that herbicide, without apparent realization of WKM2000's corporate authorship.

Unless and until a scientific paper is formally retracted, this reinforcing cycle of presumed legitimacy and importance continues without interruption. Indeed, a major study surveying the scientific literature on human health effects related to glyphosate exposure was published in September

2022. *Natural Resources Defense Council et al. v. EPA*, 38 F.4th 34 (9th Cir. 2022). EPA subsequently withdrew the remaining portions of the decision and announced that it would not meet its court-imposed deadline to complete review by October 2022.

⁶ As part of a proposed settlement of multidistrict litigation, Monsanto agreed to request permission from EPA to link scientific evidence related to Roundup's carcinogenic potential in its label. Resp'ts Opp'n Br. at 4. The court rejected the settlement on other grounds, and Monsanto never requested EPA's permission to add this information to the label. *Id.*

2024, and that article *still* cited WKM2000. Flavia Silvia Galli et al., *Overview of human health effects related to glyphosate exposure*, FRONT. TOXICOL. 6:1474792 (Sept. 18, 2024).

As *amici* explain in their own peer-reviewed journal article, “academic publishing norms can inadvertently launder corporate messaging into seemingly objective information.” Kaurov & Oreskes, at 7. This allows corporate entities, aware of these dynamics and the constraints that might prevent regulators from identifying ghostwritten research, to subvert and exploit the machinery of scientific publication in furtherance of corporate interests. And because policy decisions often begin with and build upon prior policies, regulatory reliance on compromised studies—even those that are subsequently retracted—sets in motion a self-perpetuating cycle.

III. Civil Litigation Can Be a “Catalyst” to Discover Flaws in the System.

The discovery of WKM2000’s ghost-written origins, which has led to a renewed debate over the safety of glyphosate, did not happen because of Monsanto’s goodwill or a charitable contribution to science. Nor was it noted by curious and suspecting regulators at EPA, who are not tasked with further investigation of FIFRA registered products. The research community spent years believing WKM2000 was objective glyphosate research produced to advance scientific knowledge, not to burnish a product’s safety credentials and increase its manufacturers’ profit margin. The discovery of WKM2000’s true authorship occurred because tort plaintiffs followed a path FIFRA and *Bates* allow and

Petitioners now seek to block. The paper's dubious origins were unearthed for the first time through civil discovery by litigants seeking to understand whether their client's illness could have been caused by a supposedly safe chemical.

Tort litigation can often bring precisely this kind of critical information out of the shadows and into the public domain. Information uncovered through discovery, which would otherwise be in the sole possession of the alleged tortfeasor, can be used by the parties to the litigation and by the public in many ways. As this Court noted in *Bates*, state tort actions can “aid in the exposure of new dangers associated with pesticides,” cause EPA to revisit its pesticide labels, and even “provide manufacturers with added dynamic incentives to continue to keep abreast of all possible injuries stemming from use of their product so as to forestall such actions through product improvement.” *Bates*, 544 U.S. at 451, citing *Ferebee v. Chevron Chemical Co.*, 736 F.2d 1529, 1541-42 (D.C. Cir. 1984). Where agencies such as the EPA have a limited independent ability to gather or uncover relevant information, or rely on product manufacturers to provide information that might adversely affect their own interests, “state law offers an additional, and important, layer of consumer protection that complements [the agency's] regulation.” *Wyeth v. Levine*, 555 U.S. 555, 579 (2009). In sum, “[s]tate tort suits uncover unknown . . . hazards,” and may “motivate injured persons to come forward with information,” *id.*, balancing not only the information asymmetry between tortfeasors and plaintiffs, but also between regulated entities and regulators.

This is particularly true under FIFRA. In determining whether to register a product under the statute, EPA has, at most, a passive information-gathering posture; in between widely-spaced and relatively brief notice and comment opportunities for the general public, EPA relies entirely on the product's manufacturer to report any risks associated with its product. FIFRA § 136a(c). After a product is registered, that registration never expires, and a review of the product's registration may take decades, as it has in the case of glyphosate. *See generally* 7 U.S.C. § 136a(a) (registration requirement with no "term" of registration duration); *id.* § 136a(d) (governing process for registration suspension and cancellation); *Glyphosate*, U.S. Env't Protection Agency (May 9, 2025), *supra* note 4 (chronicling extended registration renewal process for glyphosate). At the same time, "FIFRA contemplates that pesticide labels will evolve over time, as manufacturers gain more information about their products' performance in diverse settings." *Bates*, 544 U.S. at 451. State law tort claims can serve as the bridge, or "catalyst," to push information about pesticides to EPA. Without this bridge, the fox (and the fox alone) is left to guard the henhouse. Manufacturers have every incentive to withhold information that may prevent their product from being registered, or that may call into question the classification of their registration.

State law failure-to-warn claims are a feature of FIFRA's narrow preemption provision, not a bug. Petitioners' attempt to broaden FIFRA's preemptive effect would upset the balance between EPA's primarily passive oversight and the agency's ongoing duty to assess and reassess a product's safety. This is why this Court appropriately found, more than

twenty years ago, that FIFRA “authorizes a relatively decentralized scheme that preserves a broad role for state regulation.” *Bates*, 544 U.S. at 450. It is just as true today as it was in 2005 that the “long history of tort litigation against manufacturers of poisonous substances . . . emphasizes the importance of providing an incentive to manufacturers to use the utmost care in the business of distributing inherently dangerous items.” *Id.* at 449-50.

Under an interpretation of FIFRA’s preemption provision that bars a state law failure-to-warn claim, EPA may never have learned about Monsanto’s scientific fraud. And without state tort litigation bringing to light the biased authorship and flawed conclusions of a foundational paper on which academia, regulators, and the general public had relied for decades, WKM2000 would not have been formally retracted, allowing its faulty conclusions to persist in influencing policy and perpetuate false perceptions of product safety. Expanding FIFRA’s preemption provision would only serve to encourage *more* ghost-writing and similar gamesmanship by the industry, removing a critical guardrail and further degrading public trust in the entire statutory system.

CONCLUSION

Amici respectfully request that the Court affirm the Missouri Court of Appeals' judgment.

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