

***Engilis v. Monsanto Co.***  
**9th Cir. Aug. 12, 2025, No. 23-4201**

A proponent of expert testimony must always establish the admissibility criteria of Rule 702 by a preponderance of the evidence. There is no presumption in favor of admission, and the reliability test may also be applied to an expert's reasoning process.

**FACTS/PROCEDURE**

From 1990 to 2015, Peter Engilis, Jr. routinely hand-sprayed Roundup several times per month at each of his three homes in Florida. In 2014, he was diagnosed with a blood cancer known as chronic lymphocytic leukemia (CLL), which is a type of non-Hodgkin's lymphoma (NHL).

In November 2019, Engilis filed a lawsuit against Roundup manufacturer Monsanto in the Middle District of Florida, invoking the court's diversity jurisdiction and asserting claims under Florida state law. The case was subsequently transferred to a multidistrict litigation proceeding<sup>1</sup> in the Northern District of California, in which thousands of cancer victims have alleged that Roundup caused their NHL.

In a "toxic tort claim for physical injuries," a plaintiff must "show that he was exposed to chemicals that could have caused the physical injuries he complains about (general causation), and that his exposure did in fact result in those injuries (specific causation)." *Golden v. CH2M Hill Hanford Grp.*, 528 F.3d 681, 683 (9th Cir. 2008). To demonstrate that Roundup caused Engilis's cancer, Engilis relied on the expert opinion of board-certified oncologist Dr. Andrew Schneider. Dr. Schneider submitted an expert report offering opinions on both general causation and specific causation. To show specific causation—*i.e.*, that exposure to Roundup caused Engilis's cancer—Dr. Schneider conducted a differential etiology. A differential etiology is a scientific technique for establishing the cause of a medical condition in legal cases.

First, Dr. Schneider "ruled in" all potential causes of Engilis's cancer. To rule in Roundup as a possible cause, he relied upon general causation experts who opined that Roundup is capable of causing NHL and noted that Engilis had extensive exposure to Roundup. He also ruled in other risk factors, such as age, gender, ethnicity, geographic location, family history, occupational and environmental exposures, and various medical conditions.

Second, he "ruled out" numerous risk factors based on his examination of the evidence. Dr. Schneider purported to rule out numerous medical conditions, including obesity. Dr. Schneider noted that, according to Engilis's "Plaintiff Fact Sheet," Engilis was "negative" for obesity, along with nearly twenty other medical conditions. Dr. Schneider did not discuss whether obesity or any of the other identified conditions were capable of contributing to the development of NHL. But because Engilis was "negative" for the listed conditions, Dr. Schneider concluded that those conditions were not "suggested as related to or as causative factors to the onset of different types of cancers in Mr. Engilis's case." Dr. Schneider opined that exposure to Roundup caused or was a substantial factor in causing or contributing to Engilis's cancer.

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<sup>1</sup> Pursuant 28 U.S. Code § 1407 - Multidistrict litigation exists for judicial economy and aims to prevent conflicting rulings

Monsanto moved to exclude Dr. Schneider's opinion. At the Daubert hearing<sup>2</sup> on the motion to exclude, Monsanto's counsel extensively cross-examined Dr. Schneider about his basis for ruling out Engilis's obesity as a potential cause of Engilis's cancer.

In response, Dr. Schneider sought to defend his assertion that Engilis was not obese. But after conceding that he had not examined Engilis and could not say whether Engilis was obese or not, Dr. Schneider testified that, regardless of whether Engilis was obese, he did not view obesity as a potential cause of NHL. During follow-on questioning, he stated that although some medical literature reports an association between obesity and the development of NHL, his clinical experience led him to believe that obesity does not contribute to NHL.

After the hearing, the district court issued an order excluding Dr. Schneider's specific causation opinion. The district court reasoned that Dr. Schneider did not reliably rule out obesity as a potential cause of Engilis's cancer, and that this rendered his differential etiology unreliable. Because the exclusion of Dr. Schneider's testimony left Engilis without evidence of specific causation, the district court granted summary judgment in favor of Monsanto. Engilis timely appealed.

### **HOLDING/DISCUSSION**

Affirming the district court's summary judgment in favor of Monsanto Company, the panel held that the district court did not abuse its discretion in excluding the opinion of an expert witness that exposure to Roundup likely caused Peter Engilis's blood cancer.

The district court concluded that Dr. Andrew Schneider use of differential etiology was unreliable pursuant to Fed. R. Evid. 702 to establish causation because the expert failed to reliably rule out obesity as a potential cause of Engilis's cancer.

A proponent of expert testimony must always establish the admissibility criteria of Rule 702 by a preponderance of the evidence. There is no presumption in favor of admission. The panel rejected Engilis's contention that Dr. Schneider adequately supported his assertion that Engilis was not obese. Aside from the reference to Engilis's fact sheet, Dr. Schneider's expert report provided no support for his conclusion that Engilis was not obese. At the Daubert hearing, Dr. Schneider conceded that he could not say whether Engilis was obese or not.

The panel also rejected Engilis's contention that the district court erred by discounting Dr. Schneider's clinical experience and overlooking that the weight of scientific literature had found no positive association between obesity and non-Hodgkin's lymphoma (NHL). Contrary to the body of scientific literature, Dr. Schneider testified on cross-examination, that, in his view, obesity was not a risk factor for NHL or chronic lymphocytic leukemia. Without articulating a reasoned basis for his opinion, Dr. Schneider failed to establish that his testimony was "based on sufficient facts or data." Fed. R. Evid. 702(b).

Because Dr. Schneider's excluded opinion was the sole evidence upon which Engilis relied to establish causation, the panel affirmed the district court's order granting summary judgment in favor of Monsanto.

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<sup>2</sup> A Daubert hearing is a court proceeding held to determine the admissibility of expert witness testimony.