

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-14030

NANCY C. SALAS,

Plaintiff-Appellee,

versus

MONSANTO COMPANY,
a foreign corporation,

Defendant-Appellant,

BAYER CORPORATION,
a foreign corporation, et al.,

Defendants.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:21-cv-21217-KMW

ON REMAND FROM THE SUPREME COURT OF THE
UNITED STATES

Before BRANCH, GRANT, and ABUDU, Circuit Judges.

PER CURIAM:

The parties to this appeal, Nancy Salas and Monsanto Company, have jointly moved this Court to summarily reverse the district court’s judgment against Monsanto on Salas’s Florida tort claim. Summary disposition is appropriate if “the position of one of the parties is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case.” *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).¹

Salas’s complaint alleged that Monsanto negligently failed to warn consumers like her that Roundup®—a glyphosate-based herbicide that Monsanto produces—is toxic to humans and can cause cancer. In response, Monsanto argued that Salas’s failure-to-warn claim was preempted by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The district court entered judgment in Salas’s favor, and we affirmed based on our precedent holding that FIFRA did not preempt a similar Georgia claim that Monsanto failed to warn its customers that Roundup® contained a dangerous carcinogen. *Salas v. Monsanto Co.*, No. 24-14030, 2025 WL 866565, at *1 (11th Cir. Mar. 19, 2025), *cert. granted, judgment vacated*, 146 S. Ct. 2812 (2026); *see Carson v. Monsanto Co.*, 92 F.4th 980, 986 (11th Cir. 2024), *abrogated by Monsanto Co. v. Durnell*, 609 U.S. 371 (2026).

¹ We are bound by decisions of the former Fifth Circuit that were issued before October 1, 1981. *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc).

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But the Supreme Court granted Monsanto’s petition for a writ of certiorari, vacated this Court’s judgment, and remanded the case for further consideration in light of *Monsanto Co. v. Durnell*, 609 U.S. 371 (2026). *Monsanto Co. v. Salas*, 146 S. Ct. 2812, 2812–13 (2026).

In *Durnell*, as in this case, the plaintiff sued Monsanto in state court for not including a cancer warning on Roundup®’s label. 609 U.S. at 375–76. *Durnell* held that FIFRA preempted the plaintiff’s state-law failure-to-warn claim because the Act prohibited states from imposing any requirement “in addition to or different from” the EPA’s approved label, which did not include a cancer warning. *Id.* at 376, 382–85, 395.

Now, Monsanto and Salas suggest that *Durnell* dispositively resolves the only issue for appeal in Monsanto’s favor. We agree. Under *Durnell*, Salas cannot proceed on her state common law failure-to-warn claim because it is preempted by federal law. We therefore GRANT the parties’ motion for summary adjudication and REVERSE the district court’s judgment against Monsanto.

REVERSED.