

PCBs and Precedent: What the Monsanto Settlement Means for Future Toxic Torts

By **Max Swetman**

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Monsanto has recently settled with families who claimed they were exposed to polychlorinated biphenyls (PCBs) at a school near Seattle, ending what had become one of the most closely watched toxic tort cases in recent memory. The settlement came not long after the Washington Court of Appeals tossed a massive \$185 million jury award originally handed down in 2021 (*AP News*, July 2021). Altogether, around 200 individuals who were associated with the school have claimed that they were harmed from exposure, making this case part of a broader series of related legal actions.

Monsanto Company was the sole US manufacturer of PCBs from the 1930s until 1977, and they were officially banned in 1979. PCBs were industrial chemicals used in electrical equipment and construction materials because of their insulating and non-flammable properties. The families alleged that aging light fixtures in the school leaked harmful PCBs, leading to serious neurological and developmental issues. A jury sided with them and issued a massive damages award. However, Monsanto, now under Bayer's ownership, challenged the ruling.

On appeal, the court agreed with the company and reversed the trial court's decision. The reason for the reversal was a choice-of-law error: the trial court applied Missouri law, which is more generous with punitive damages, rather than Washington law, which governs the actual events. The trial court had applied Missouri law because Monsanto was headquartered there at the time. That error, combined with what the appellate court called "inflammatory" evidence, was enough to reverse the verdict (*Reuters*, Feb. 2024).

The plaintiffs appealed this new decision. They asked the Washington Supreme Court to step in, arguing that the lower court misunderstood key parts of state tort law and unfairly raised the bar for proving toxic exposure. Their appeal raised big questions: whether environmental claims require direct biological testing, or if expert analysis and environmental sampling are enough (*Reuters*, 2024). Specifically, Monsanto's defense noted from the outset of the litigation that the plaintiffs had not provided blood tests or other biological proof showing PCB exposure. Instead, they leaned heavily on air and surface sampling from the school, and expert opinions about PCB risks (*Law360*, June 2025). Moreover, Monsanto raised concern over causation. They argued there was no solid science connecting low-level environmental exposure to the specific developmental issues reported. On the other hand, plaintiff's counsel claimed that the air testing was done after the PCB emitting materials were removed, and PCBs are known to metabolize quickly in the human body, making biological detection difficult long after the fact. Their view: the theory did not go beyond speculation. Finally, the company pointed out that PCBs haven't been made in the US since the late 1970s. Congress officially banned them in 1979 under the Toxic Substances Control Act (*EPA*, 2023). From Monsanto's perspective, any claims tied to those materials were decades too late.

Although a court determination on these legal issues may be dispositive as to those issues in future PCB litigation, Monsanto settled with the plaintiffs, and the deal's terms remain confidential.

This case highlights the different legal challenges inherent in environmental and toxic tort suits. While science does not always give us the conclusive answer in cases like these, it's important to remember in this case that Monsanto was not given the opportunity to examine plaintiff blood samples for PCBs. This case's decision history was shaped by the absence of important knowledge and illustrates how courts are often stuck figuring out how to weigh incomplete or indirect evidence. PCBs were everywhere in American industry and construction once upon a time.

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(Continued)



Even today, PCBs are still around: in old buildings and in aging equipment.

Law firms with long-standing experience in toxic tort litigation, including cases involving PCBs, continue to play a key role as these claims evolve. For over two decades, MG+M has handled PCB-related matters across jurisdictions, including cases involving alleged exposure in schools, industrial sites and other legacy environments. MG+M has successfully persuaded courts to adopt its position on the inherently complex issues surrounding PCB litigation, including fate and transport, fingerprinting and causation—or the lack thereof.

For Bayer, the substantial litigation that came with buying Monsanto in 2018 continues. PCB lawsuits are far from over. A case like this helps shape the larger rules about how exposure must be proven, especially when injury manifests long after the fact.

In conclusion, this case emphasizes that proving one's case is not just a matter of the facts in the record, but also what data and science is allowed to be obtained by a court and the applicable law at issue.

MG+M Law Clerk Adam Kaufman is a contributing author of this article.

AP News – Monsanto told to pay teachers \$185M over chemical exposure <https://apnews.com/article/business-health-1743c2dd917971ef721c7c07cf2bad16>

Reuters – Washington Court of Appeals Overturns \$185M PCB Verdict <https://www.reuters.com/legal/bayers-monsanto-wins-reversal-185-million-pcbs-verdict-washington-court-2024-05-02/>

Law360 – Monsanto Settles With Families After 11th Seattle PCB Trial <https://www.law360.com/articles/1833582> (Subscription required)

Courtroom View Network (CVN) – Monsanto Verdict Tossed on Appeal <https://blog.cvn.com/washington-supreme-court-to-review-decision-tossing-185m-monsanto-pcb-verdict>

EPA – Summary of the PCB Manufacturing Ban <https://www.epa.gov/pCBS/learn-about-polychlorinated-biphenyls-pcbs>

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