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Attorneys for Defendant
MONSANTO COMPANY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

DEWAYNE JOHNSON,
Plaintiff,

vs.

MONSANTO COMPANY,
Defendant.

Case No. CGC-16-550128

**DECLARATION OF SANDRA A.
EDWARDS IN SUPPORT OF
DEFENDANT MONSANTO COMPANY'S
TRIAL BRIEF TO EXCLUDE EXPERT
TESTIMONY FROM DR. OPE OFODILE**

Honorable Judge Suzanne R. Bolanos

Department: 504
Trial Date: June 18, 2018

ELECTRONICALLY
FILED
*Superior Court of California,
County of San Francisco*
07/23/2018
Clerk of the Court
BY: VANESSA WU
Deputy Clerk

1 I, Sandra A. Edwards, declare as follows:

2 1. I am an attorney duly admitted to practice before this Court. I am a partner with
3 Farella Braun + Martel LLP, attorneys of record for Defendant Monsanto Company ("Monsanto").
4 I submit this Declaration in support of Monsanto's Trial Brief to Exclude Expert Testimony from
5 Dr. Ope Ofodile.

6 2. Attached hereto as **Exhibit 1** is a true and correct copy of "Designation/Declaration
7 of Expert Witnesses by Plaintiff," served on Monsanto's counsel on Dec. 29, 2017.

8 3. Attached hereto as **Exhibit 2** is a true and correct copy of excerpts from the
9 January 8, 2018 deposition of Dr. Onaopemipo "Ope" Ofodile.

10 I declare under penalty of perjury under the laws of the State of California that the
11 foregoing is true and correct, and that this declaration was executed on July 22, 2018, at
12 San Francisco, California.

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15 Sandra A. Edwards
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Exhibit 1

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SAN FRANCISCO**

10 DEWAYNE JOHNSON,

11 Plaintiff,

12 v.

13 MONSANTO COMPANY, STEVEN D.
14 GOULD, WILBUR-ELLIS COMPANY
LLC, and WILBUR-ELLIS FEED, LLC,

15 Defendants.
16
17
18

Case No. CGC-16-550128

**DESIGNATION/DECLARATION OF
EXPERT WITNESSES BY PLAINTIFF**

Hon. Judge Curtis E.A. Karnow

Department: 304

19 **PLAINTIFF'S AMENDED DISCLOSURE OF EXPERT WITNESSES AND DECLARATION**

20 **COMES NOW PLAINTIFF**, DEWAYNE JOHNSON, pursuant to the court's scheduling order
21 and Cal. Code Civ. Proc. § 2034.260, identifies experts who are expected to be called at the trial of this
22 matter. These experts are in addition to those already identified by Plaintiff in this case with regard to
23 "general causation." Plaintiff's expert witnesses are:
24

- 25 1. Charles Benbrook, PhD.

26 Dr. Benbrook will testify on the matters and opinions discussed in his signed expert report,
27 attached hereto as EXHIBIT A. Dr. Benbrook has agreed to testify at the trial of this case. He is
28 sufficiently familiar with this matter to submit to a meaningful deposition. Dr. Benbrook's rate

1 for expert consulting is \$300 per hour.

2 2. Chadi Nabhan, M.D.

3 Dr. Nabhan will testify on the matters and opinions discussed in his signed supplemental expert
4 report, attached as EXHIBIT B. Dr. Nabhan's "general causation" report and deposition are
5 incorporated by reference. He has agreed to testify at the trial of this case. He is sufficiently
6 familiar with this matter to submit to a meaningful deposition. Dr. Nabhan's hourly expert rate is
7 \$550 per hour.

8 3. William Sawyer, Ph.D.

9 Dr. Sawyer will testify on the matters and opinions discussed in his signed expert report,
10 attached hereto as EXHIBIT C. He has agreed to testify at the trial of this case. He is sufficiently
11 familiar with this matter to submit to a meaningful deposition. Dr. Sawyer's hourly expert rate is
12 \$460 per hour.

13 4. James Mills, MBA

14 Mr. Mills will testify on the matters and opinions discussed in his signed expert report, attached
15 hereto as EXHIBIT D. He has agreed to testify at the trial of this case. He is sufficiently familiar
16 with this matter to submit to a meaningful deposition. Mr. Mills hourly expert rate is \$595 per
17 hour; his partner Mr. Johnson's hourly expert rate is \$700. Plaintiffs also reserve the right to call
18 Mr. Mills to testify as to Monsanto's net worth during the punitive damage phase of the trial.

19 5. Treating healthcare providers:

20 Plaintiff reserves the right to elicit testimony at trial from any of Plaintiff's treating physicians to
21 the full extent allowable under California law.

22 6. Defendant's experts:

23 Plaintiff reserves the right to elicit expert testimony at trial from any of the Defendant's retained
24 expert witnesses.

25 7. Rebuttal witnesses: Plaintiff reserves the right to designate rebuttal expert witnesses.

1
2 Discovery is ongoing. Depositions have not been completed and all documents due from the
3 Defendant have not been received. Accordingly, Plaintiff reserves the right to supplement these
4 expert opinions as new information is made available. This designation may be supplemented by
5 expert reports.
6

7
8 **DECLARATION OF TIMOTHY LITZENBURG, ESQ.**
9

10 I am the retained attorney for Plaintiff Dewayne Johnson in the above styled case. I have personal
11 knowledge of the facts contained in this declaration, and, if called as a witness, I am competent to testify
12 to those facts. I am over the age of 18 and a resident of Virginia. I make this declaration in support of the
13 Plaintiff Dewayne Johnson's Designation of Experts.

14 I declare under penalty of perjury under the laws of the state of California that the foregoing is true and
15 correct and if called as a witness I could and would competently testify thereto.

16 Executed this 29ND DAY OF DECEMBER 2017
17

18 Dated: December 29, 2017
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22 _____/S/ Timothy Litzenburg_____
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PROOF OF SERVICE

Johnson v. Monsanto Company, CGC-16-550128

I am over the age of 18 and not a party to the within action. My business address is 108 Railroad Ave Orange, VA 22960.

On December 29, 2017, I served the foregoing document described as **Plaintiff's Amended Expert Designation by email and first class mail to:**

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Attorneys for Defendant

December 29, 2017

____/s/ Timothy Litzenburg____

CURRICULUM VITAE

James A. Mills

EDUCATION

San Jose State University

San Jose, California

Master of Arts – Applied Economics, 2000

Santa Clara University

Santa Clara, California

Bachelor of Arts – Major: Economics, 1993

Continuing Education

U.C. Berkeley University Extension

Certificate in Accounting, 2006

PROFESSIONAL HISTORY

2002 to Present

ROBERT W. JOHNSON & ASSOCIATES - Los Altos, California

Sr. Economist. Prepared hundreds of individual and multi-claimant economic damages analyses. Analyzed financial documents of over fifty public and private companies for ability to pay punitive damages. Given deposition testimony over 300 times. Court qualified expert witness testimony in four states in personal injury, wrongful death, dissolution of marriage, financial fraud and punitive damages cases. Research history and trends of market economic variables.

1997 to 2002

NEIMAN MARCUS CO. - Palo Alto, California

Operations Manager. Managed day-to-day operations for multi-department retail store with \$50 million in annual sales and approximately \$10 million in annual payroll and operating expenses. Directed strategic financial management including short- and long-range planning, financial control and measurement systems, accounting and auditing operations, and financial reporting.

1987 to 1997

NEIMAN MARCUS CO. - Palo Alto and San Francisco, California

Loss Prevention and Sales Support Management.

CASE INVOLVEMENT (partial list)

MID-COAST MORTGAGE v. CUESTA TITLE – Retained as economic expert by plaintiff to testify, in a financial fraud case, as to the current value of funds invested with a real estate developer.

MAJOR v. R.J. REYNOLDS TOBACCO CO. - Retained as economic expert by plaintiff to determine the lost economic support and household services as result of a wrongful death.

RADFORD v. BAE SYSTEMS SAN FRANCISCO SHIP REPAIR – Retained as economic expert by plaintiff to testify as to financial condition of defendant and ability to pay punitive damages.

IN THE MARRIAGE OF KAHN v. KAHN – Retained as economic expert to determine the value of past earning capacity and the value of appreciation on separate real property assets.

MORA v. COMMUNITY INTEGRATED WORK PROGRAM – Retained as economic expert to determine past and future medical expenses incurred by multiple plaintiffs due to motor vehicle accident.

GRIGGS v. CATERPILLAR – Senior Consulting Economist on a team retained by plaintiff to calculate present cash value of lost earning capacity and future medical expenses involving a heavy equipment operator burned on over 75% of his body.

BULLOCK v. PHILIP MORRIS – Senior Consulting Economist on a team retained by plaintiff regarding the calculation of a punitive damages case.

PIETROWSKI v. BNSF – Senior Consulting Economist on a team retained by plaintiff regarding a personal injury and punitive damages case involving a utility worker injured after an accident with a train.

PLOOY v. MET LIFE – Senior Consulting Economist on a team retained by plaintiff regarding a personal injury mesothelioma case seeking economic and punitive damages.

KAHLE v. NORTHERN CALIFORNIA RAILROAD – Senior Consulting Economist on a team retained by defendant regarding a personal injury economic damages case against a railroad.

PROFESSIONAL ASSOCIATION AND LICENSE

Member, American Economics Association

Member, National Association of Forensic Economics

Licensed life agent. Broker of structured settlements.

Exhibit 2



Deposition of:
Onaopemipo Ofodile , M.D.

January 8, 2018

In the Matter of:
Johnson vs. Monsanto

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO

DEWAYNE JOHNSON,

Plaintiff,

vs.

CIVIL ACTION NO.

MONSANTO COMPANY,

CGC-16-550128

Defendant.

DEPOSITION OF ONAOPEMIPO OFODILE, M.D.

(Taken by Defendant)

January 8, 2018

8:40 a.m.

2455 Delk Road

Atlanta, Georgia

Reported by: Debra M. Druzisky, CCR-B-1848

1 be contributing.

2 Q. Okay. So you're referring to, you say a
3 big pocket of possible factors. [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 Q. Right.

16 A. Yeah. But studies have looked at several
17 different factors that may be contributing. And in
18 some types of cutaneous T-cell lymphoma, there's
19 thought that there are some viruses, there's a
20 particular type of virus called H.T.L.V. virus that
21 may be contributing.

22 And then, like I said, environmental
23 factors, pest -- you know, pesticides in particular
24 was one that was mentioned. So they're all kind of
25 factors that they think may be related, but we

1 Q. Okay.

2 A. Yeah.

3 Q. So you've never reviewed any studies or
4 any epidemiology on any relationship between
5 glyphosate and non-Hodgkin lymphoma?

6 A. I have not. No, I didn't -- don't even
7 think -- he mentioned it to me I think a while ago,
8 but I didn't actually have that name. I didn't
9 know which exposures he had to even really look
10 into that. But no, I did no research on that.

11 Q. Okay. And I take it you've never
12 published on any link between glyphosate and
13 non-Hodgkin lymphoma --

14 A. No.

15 Q. -- or mycosis fungoides? Okay.

[REDACTED]

[REDACTED]

[REDACTED]

19 Q. Had you ever heard those words used
20 before?

21 A. I feel like Roundup is used in some
22 household products, isn't it?

23 Q. Okay.

24 A. I mean, I feel like I've heard of it but
25 not --

1 subjects in here.

2 So yes, this one said no. And I
3 agree with you, there are some that do say
4 no. But I wouldn't say that this
5 characterizes everything that I've read.

6 BY MS. SALEK:

7 Q. Oh, sure. No. I just meant this is an
8 example of --

9 A. Of the ones that --

10 Q. -- one that --

11 A. -- yes --

12 Q. -- that don't --

13 A. -- that does not support an association,
14 correct.

[REDACTED]

[REDACTED] Geographic clustering and then a
23 higher proportion in certain occupations are the
24 two things that I think suggest possible
25 association. But yes, overall it's not conclusive,

1 Q. Okay.

2 A. -- but association is definitely there.

3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]

11 [REDACTED]. You know, I mean, there
12 are, you know, there are suggestions that it may be
13 related, but we don't have any clear evidence to
14 prove that it is.

15 Q. Okay.

16 [REDACTED]
17 [REDACTED]

18 Q. Okay.

19 A. But I do know that in certain populations
20 they have higher rates of C.T.C.L., and it may be
21 attributed to some environmental exposures that
22 they have. But we just don't know what that is and
23 we can't prove that at this stage.

24 [REDACTED]
25 [REDACTED]
26 [REDACTED]

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BY MS. SALEK:

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Q. Okay. I'd like to show you -- now, you mentioned a few minutes ago that one of the reasons you -- one of the reasons that Mr. Johnson's C.T.C.L. was not run-of-the-mill, and you can correct me if I'm remembering this wrong --

A. Uh-huh.

Q. -- was because you usually saw mycosis fungoides in Caucasian males? Was that one of the reasons?

A. Yeah. I mean, it's generally -- I mean, C.T.C.L., it's generally most commonly seen in kind of older Caucasian men and women.

Q. Okay.

A. I think there's a slightly higher male dominance than not. But you know, most of the C.T.C.L. that we see is seen in that population. The majority of my patients fall in that category.

Q. In your clinical experience?

A. Well, not just clinical experience. I

1 Q. Okay. All right. I'd like to switch
2 gears just for a moment. I think we've covered
3 part of this before --

4 A. Uh-huh.

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 Q. Okay.

12 A. Not into details, correct.

13 Q. So not the details about the amount or the
14 length or where exactly he was -- he claims to have
15 been exposed?

16 A. Correct.

17 Q. Okay. And it sounds like you're somewhat
18 familiar at least with protective clothing, is that
19 correct, or just based on your conversations with
20 Mr. Johnson?

21 A. Yeah. Mostly based on my conversations.

22 Q. All right.

23 A. I don't know what type of clothing is
24 required when individuals are exposed to or, you
25 know, managing certain pesticides are required to

1 Q. -- kind of to protect against those
2 exposures, then --

3 A. Uh-huh.

4 Q. -- you have no opinion here today to a
5 reasonable degree of medical certainty that the
6 range -- that his claimed exposures to Ranger Pro
7 or Roundup then definitively caused his mycosis
8 fungoides; is that right?

9 MR. LITZENBURG: Object to form of
10 the question.

11 You can answer if you understand.

12 THE WITNESS: I mean, I think, like I
13 said before, there's no definitive --

14 BY MS. SALEK:

15 Q. Okay.

16 A. -- correlation for sure.

17 Q. All right.

18 A. But like I also said, you know,
19 individuals in particular fields of work, their
20 particular environmental exposures, like pesticides
21 and in people like farmers and -- you know, using
22 pesticides, they have a higher rate of C.T.C.L.
23 than in other occupations. You know, there is
24 suggestion that there's a possible relation. [REDACTED]

[REDACTED]

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Q. All right. And again, your specialty is in dermatology, you're not an epidemiologist; correct?

A. Correct. I'm not an epidemiologist.

Q. Okay.

A. I did have my master's in public health, but that's not what I currently train in. But I do have understanding of epidemiology and such.

Q. Okay. But you are not an epidemiologist by expertise or by training?

A. No. I mean, I have my master's in public health. And you know, public health, one of the main aspects of public health is we spend a lot of

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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