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13 **DEWAYNE JOHNSON**

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

DEWAYNE JOHNSON,
Plaintiff,
v.
MONSANTO COMPANY
Defendants.

Case No. CGC-16-550128

**DECLARATION OF CURTIS G. HOKE IN
SUPPORT OF PLAINTIFF'S MOTION IN
LIMINE NO. 10 TO EXCLUDE EVIDENCE
OF HEALTH INSURANCE POLICIES**

Trial Judge: TBD

Hearing Date: TBD

Time: TBD

Department: TBD

Trial Date: June 18, 2018

[Filed Concurrently with Memorandum of Points
and Authorities and *[Proposed]* Order]

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco
05/24/2018
Clerk of the Court
BY: SANDRA SCHIRO
Deputy Clerk

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DECLARATION OF CURTIS G. HOKE

I, Curtis Hoke, declare and state:

1. I am an attorney at law admitted to practice before all of the courts in the state of California. I am an attorney at The Miller Firm, LLC, attorneys of record for Plaintiff Dewayne Johnson. I am over eighteen years of age and am fully competent to make this Declaration in support of Plaintiff's Motion *in Limine* No. 10 to Exclude Evidence of Health Insurance Policies. Except as otherwise expressly stated below, I have personal knowledge of the facts stated in this declaration, and if called to testify, I could and would competently testify to the matters stated herein.

2. Attached hereto as **Exhibit A** is a true and correct copy of portions of the deposition of Dewayne Johnson that occurred on December 7, 2017.

3. Attached hereto as **Exhibit B** is a true and correct copy of portions of the deposition of Dewayne Johnson that occurred on January 20, 2018.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 24, 2018 in Orange, Virginia.

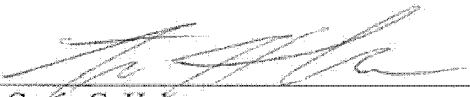
By: 
Curtis G. Hoke,
Declarant

Exhibit A

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

-----)	
DEWAYNE JOHNSON,)	
)	
Plaintiff,)	
)	
vs.)	Case No.
)	CGC-16-550128
MONSANTO COMPANY,)	
)	
Defendant.)	
-----)	

VIDEOTAPED DEPOSITION OF
DEWAYNE ANTHONY LEE JOHNSON
Vallejo, California
Thursday, December 7, 2017
Volume I

Reported by: SUZANNE F. GUDELJ
CSR No. 5111
Job No. 2770165

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

DEWAYNE JOHNSON,)	
)	
Plaintiff,)	
)	
vs.)	Case No.
)	CGC-16-550128
MONSANTO COMPANY,)	
)	
Defendant.)	
)	

Videotaped Deposition of DEWAYNE ANTHONY LEE JOHNSON, Volume I, taken on behalf of Defendant Monsanto, at Courtyard by Marriott, 1000 Fairgrounds Drive, Vallejo, California, beginning at 9:24 a.m. and ending at 6:48 p.m., on Thursday, December 7, 2017, before SUZANNE F. GUDELJ, Certified Shorthand Reporter No. 5111.

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1 APPEARANCES (Continued):

2

3 Also Present:

4 KEVIN FOUR: Veritext Video Operator

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1 otherwise, don't.

2 BY MR. COPLE:

3 Q You're -- you're aware of that?

4 A No, I'm not aware of that.

5 Q So none of your -- your testimony is that 12:11:27

6 none of the doctors who have examined and treated

7 you have told you that there's no medical reason

8 that's known for what causes mycosis --

9 A No, they say there's no cure. They didn't
10 say there's no medical reason. They just say 12:11:43

11 there's no cure right now at this point, and you're
12 in for a long fight.

13 Q Do you have insurance right now, medical
14 insurance?

15 A No. 12:11:52

16 Q Health insurance?

17 A No.

18 Q Why don't you have insurance?

19 A Because the school district canceled my
20 personal insurance because I was on Workers' Comp, 12:12:01

21 so Workers' Comp doesn't have medical. So I went to

22 Social Security and tried to get it through them and

23 got turned down just recently, last week, for too

24 much income. My wife's income and my Social

25 Security income disqualifies me for MediCal, so then 12:12:17

Page 178

1 I have to sign up for Covered California.

2 Q Have you applied for coverage under
3 Obamacare?

4 A Obamacare, Trumpcare, whatever you want to
5 call it, Covered California, but yeah, I signed up, 12:12:32
6 and I'm waiting for -- now for more papers to come
7 back from that so I can just start my enrollment
8 fee. It should be all right hopefully.

9 Q So --

10 A Who knows? 12:12:44

11 Q -- it's pending?

12 A It's pending.

13 Q So while your insurance is pending, you are
14 still receiving medical care for mycosis fungoides,
15 correct? 12:12:57

16 A Yes, sir. Yeah.

17 Q And who's -- who's providing that care now?
18 Who are your doctors right now?

19 A Kaiser oncology.

20 Q And that's Dr. Truong? 12:13:05

21 A Dr. Truong.

22 Q And anyone else besides Dr. Truong?

23 A The dermatology department has been a
24 little bit involved, but Dr. Truong does not want
25 any topicals or anything else going on with her 12:13:16

Page 179

1 with mycosis fungoides, right?

2 A Well, I don't know that to be true. I know
3 the day -- it was different days, like Kaiser said
4 this day and Stanford said that day, so it's been at
5 least three years. 03:27:44

6 Q All right. So three years back to the
7 diagnosis?

8 A I've been saying within a few months, it's
9 going to be up to the four years.

10 Q Okay. And do you have medical expenses 03:27:51
11 that have not been covered by insurance?

12 A Oh, yeah.

13 Q And do you still owe those expenses?

14 A Yeah, all kinds. There's \$110,000 right
15 now, and it's probably more since I've been having 03:28:04
16 chemo. I've had three treatments of chemo.
17 Probably it's about \$170,000 right now.

18 Q All right. And your estimate of a 170,000,
19 is that based on the billing statements?

20 A Yes, sir. I got a bill the other day that 03:28:15
21 said \$110,000.

22 Q And you have those records?

23 A I did not bring that.

24 Q But you have those records?

25 A Yes, I do. 03:28:22

Exhibit B

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO, UNLIMITED JURISDICTION

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DEWAYNE JOHNSON,)
)
Plaintiff,)
v.) Case No. CGC-16-550128
)
MONSANTO COMPANY,)
)
Defendants.)
_____)

DEPOSITION OF DEWAYNE JOHNSON
Vallejo, California
VOLUME 3
Saturday, January 20, 2018

Reported by:
Alisa A. James
CSR No. 10901
Job #2795471
Pages 588 - 779

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO, UNLIMITED JURISDICTION

--oOo--

DEWAYNE JOHNSON)
)
 Plaintiff,)
 v.) Case No. CGC-16-550128
)
 MONSANTO COMPANY,)
)
 Defendants.)
 _____)

Deposition of DEWAYNE JOHNSON, called as a
witness on behalf of the defendants, at 1000
Fairgrounds Drive, Vallejo, California, beginning
at 9:13 a.m., on Saturday, January 20, 2018, before
Alisa A. James, Certified Shorthand Reporter, License
No. 10901.

1 APPEARANCES:

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21 ALSO PRESENT:

Ramon A. Peraza, Videographer

22 Veritext Legal Services

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24

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I N D E X

WITNESS

DEWAYNE JOHNSON

Examination by:

Page

MR. LITZENBURG

596/773

Mr. COPLE

731

E X H I B I T S

Plaintiff's

Page

Exhibit

Description

Marked

Exhibit 1

Photo of Johnson family

Araceli, Ali, Kahli

602

Exhibit 2

Photo of kids

Ali, Kahli

603

Exhibit 3

Benicia Unified School

District Performance

Evaluation for D. Johnson

608

Exhibit 4

BUSD Job Description for

Grounds-Integrated Pest

Manager (IPM)

612

Exhibit 5

Photo of sprayer machine

for truck

625

Exhibit 6

Photo of Solo backpack

sprayer

628

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E X H I B I T S

Plaintiff's		Page
Exhibit	Description	Marked
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Exhibit 8	Monsanto Company MSDS effective date 5/29/15	637
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Exhibit 11	Monsanto Medical Management Protocol Sheet	651
Exhibit 12	DUPONT Tyvex 400 Collared Coverall, Reduced Spray Level of Protection Suit	657
Exhibit 13	Photo of D. Johnson in Tyvex coverall	658
Exhibit 14	Photo of D. Johnson in coverall and dust mask	659
Exhibit 15	Kaiser Permanente medical record for D. Johnson for 7/23/14 re: Exposure	677

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E X H I B I T S

Plaintiff's		Page
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Exhibit 18	Four photos of D. Johnson's skin with Mycosis Fungoides	691
Exhibit 19	Emails bet. Daniel Goldstein and Patricia Biehl dated 11/11/2014	695
Exhibit 20	Letter dated 4/28/15 from Monsanto Company Re: Affairs Manager Simone Seifert-Higgins Subject: Info which may be required under S 6(a)(2) FIFRA	701

1 REQUESTS TO PRODUCE:

2 (None)

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5 QUESTIONS MARKED:

6 Page Line

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8 (None)

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1 Q You would never wear -- 01:00:05

2 A The same one twice, no. 01:00:06

3 Q Okay, all right. And when you would spray, 01:00:07

4 and then go about the rest of your responsibilities at 01:00:09

5 work for the rest of the workday, would you continue to 01:00:12

6 wear that hoodie while you were working, or would you 01:00:15

7 take it off? 01:00:17

8 A Most of the time that -- that hoodie would 01:00:19

9 come off, because of the temperature of the day, and it 01:00:22

10 just was part of the spraying in the morning, so I 01:00:24

11 wouldn't keep that on all day. 01:00:28

12 Q So you wouldn't wear it on your way home 01:00:29

13 from work, correct? 01:00:32

14 A No. 01:00:33

15 Q Okay. The hoodie is hundred percent cotton? 01:00:35

16 Do you know? 01:00:41

17 A Um, I would take a good scientific guess and 01:00:42

18 say, yes, it was just -- 01:00:44

19 Q Or was it a polyester blend? 01:00:47

20 A No, it was just basic cotton. 01:00:49

21 Q Okay. Your wife now has coverage under 01:00:51

22 California Coverage for Medical Insurance; is that 01:00:55

23 right? 01:00:57

24 A My wife has private coverage through her 01:00:58

25 job. 01:01:00

1 Q Okay. And do you plan to submit your 01:01:00
2 medical bills for mycosis fungoides under her medical 01:01:02
3 coverage? 01:01:08
4 A Not at all. 01:01:09
5 MR. COPLE: Okay. Thank you, Mr. Johnson. 01:01:10
6 THE WITNESS: Thank you, sir. 01:01:29
7 Is that it? 01:01:31
8 MR. LITZENBURG: I'm going to ask you a 01:01:31
9 couple questions based on his. 01:01:32
10 01:01:34
11 E X A M I N A T I O N 01:01:34
12 BY MR. LITZENBURG: 01:01:35
13 Q We don't even need to get it out, but we 01:01:35
14 looked at -- well, we better. 01:01:37
15 Look at P-11 if you could? 01:01:40
16 MR. COPLE: We don't have a copy of P-11, 01:01:45
17 Counsel. 01:01:47
18 BY MR. LITZENBURG: 01:01:47
19 Q Well, show it to defense counsel, if you 01:01:47
20 will, before I ask you a question. 01:01:50
21 A (Witness complies.) 01:01:52
22 Q Monsanto's lawyer asked you just a minute 01:02:20
23 ago if you understood that this was intended for 01:02:23
24 healthcare providers from Monsanto. 01:02:26
25 Do you remember him saying that? 01:02:29

1	A	Yes, sir.	01:02:30
2	Q	Okay. And if Monsanto had told any of your	01:02:30
3		healthcare providers that this can cause cancer, and	01:02:32
4		they had passed that information onto you, would you	01:02:36
5		have stopped using Ranger Pro?	01:02:38
6	MR. COPLE:	Objection, asked and answered.	01:02:41
7		Calls for speculation.	01:02:41
8	THE WITNESS:	I would have stopped using the	01:02:43
9		product.	01:02:45
10	BY MR. LITZENBURG		01:02:45
11	Q	Okay. Look at P-20, please.	01:02:46
12	A	(Witness complies.)	01:02:48
13	Q	Okay. And we talked about this and MRPC and	01:02:48
14		the Missouri Regional Poison Control.	01:03:01
15		Do you remember that?	01:03:04
16	A	Yes.	01:03:04
17	Q	Okay. There was a question about why you	01:03:05
18		would call the Missouri Poison Control.	01:03:08
19		Do you remember that question?	01:03:12
20	A	Yes, I do.	01:03:13
21	Q	At the top right-hand corner, does it tell	01:03:13
22		you where Monsanto Company is located?	01:03:16
23	A	It does.	01:03:19
24	Q	Where is it located?	01:03:20
25	A	It's south of -- well, St. Louis Missouri,	01:03:20

1 and on Lindenbergh (sic) Boulevard over there. 01:03:22

2 Q Okay. So is it your understanding, from 01:03:25

3 this document, that you called the poison control 01:03:27

4 number, and the poison control center passed your 01:03:30

5 information on to Monsanto? 01:03:33

6 MR. COPLE: Objection. No foundation, and 01:03:35

7 object to the form of the question. 01:03:37

8 THE WITNESS: Yes. 01:03:41

9 BY MR. LITZENBURG: 01:03:41

10 Q Okay. Mr. Johnson, if you've -- have you 01:03:43

11 missed -- have you ever missed an oncology office 01:03:49

12 visit? 01:03:52

13 A Um, I've only missed visits if I've been 01:03:52

14 very sick, very dragging around, and not able to make 01:03:55

15 it to the appointments. 01:04:00

16 And there was at a point where I was very nervous 01:04:01

17 about going to one or two appointments, because my 01:04:06

18 medical bills had gotten over to a 100-something 01:04:08

19 thousand dollars, and I was concerned. I was even 01:04:12

20 confused, because I got a bill one time that said that 01:04:14

21 even one visit to the oncology department was, like, 01:04:18

22 \$20,000. And I'm, like, going every week. So I was, 01:04:20

23 like, stressed and, like, tripping. Like, oh, my God, 01:04:24

24 you know? 01:04:28

25 And so they told me, no, no. Keep coming, no 01:04:28

1 matter what. We'll bill you, you just keep coming. 01:04:32
2 So I didn't think they were even going to -- it was 01:04:32
3 just hard. After I didn't have coverage, it was very 01:04:34
4 hard to get an appointment and stuff. It just kind of 01:04:38
5 fell apart. 01:04:41
6 So, yeah, there were times where I was very sick 01:04:42
7 where I really couldn't make it to appointments. It 01:04:44
8 was, like, too painful. I would be an hour late, and 01:04:45
9 they would reschedule me. You know what I mean? 01:04:48
10 So it is what it is. I was -- I wasn't trying to 01:04:52
11 miss appointments. I was at a point where it was 01:04:54
12 financially one point -- one or two -- I remember one 01:04:55
13 or two appointments where I just didn't want to go. I 01:04:58
14 can't pay \$300,000. I'm already in the hole 100,000, 01:05:01
15 you know? So I was kind of scared at one point. 01:05:05
16 And then, yeah, sometime it was just -- I 01:05:08
17 couldn't make it to appointments I was sick. 01:05:10
18 Q So other than being too ill to go or being 01:05:12
19 concerned about the financial impact, any other reason 01:05:16
20 you'd skip an appointment? 01:05:19
21 MR. COPLE: Object to the form of the 01:05:21
22 question. And the medical records speak for 01:05:21
23 themselves. 01:05:23
24 THE WITNESS: No. There would be no other 01:05:24
25 reason I would not show up to a doctor's 01:05:26

1	appointment.	01:05:28
2	MR. LITZENBURG: Thank you for your time	01:05:28
3	today.	01:05:29
4	THE WITNESS: Thank you.	01:05:30
5	Is that it?	01:05:32
6	MR. LITZENBURG: Yes.	01:05:33
7	THE WITNESS: Forever?	01:05:33
8	THE VIDEOGRAPHER: This is the end of	01:05:35
9	today's deposition of Dewayne Johnson.	01:05:36
10	We are off the record at 1:05 p.m. The	01:05:38
11	total number of media used was 3:10 and it will	01:05:39
12	be retained by Veritext.	01:05:42
13	Thank you.	01:05:46
14	(Proceedings concluded at 1:05 P.M.)	

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