

1 Sandra A. Edwards (State Bar No. 154578)  
Joshua W. Malone (State Bar No. 301836)  
2 Farella Braun + Martel LLP  
235 Montgomery Street, 17th Floor  
3 San Francisco, CA 94104  
Telephone: (415) 954-4400; Fax: (415) 954-4480  
4 sedwards@fbm.com  
jmalone@fbm.com

5 Joe G. Hollingsworth (appearance *pro hac vice*)  
6 Martin C. Calhoun (appearance *pro hac vice*)  
Kirby T. Griffis (appearance *pro hac vice*)  
7 William J. Cople (appearance *pro hac vice*)  
Hollingsworth LLP  
8 1350 I Street, N.W.  
Washington, DC 20005  
9 Telephone: (202) 898-5800; Fax: (202) 682-1639  
jhollingsworth@hollingsworthllp.com  
10 mcalhoun@hollingsworthllp.com  
kgriffis@hollingsworthllp.com  
11 wcople@hollingsworthllp.com

12 George C. Lombardi (appearance *pro hac vice*)  
James M. Hilmert (appearance *pro hac vice*)  
13 Winston & Strawn LLP  
35 West Wacker Drive  
14 Chicago, IL 60601  
Telephone: (312) 558-5969; Fax: (312) 558-5700  
15 glombard@winston.com  
jhilmert@winston.com

16 *Attorneys for Defendant*  
17 MONSANTO COMPANY

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

21 DEWAYNE JOHNSON,  
22 Plaintiff,

23 vs.

24 MONSANTO COMPANY,  
25 Defendant.

Case No. CGC-16-550128

**DEFENDANT MONSANTO COMPANY'S  
MOTION *IN LIMINE* NO. 15 TO  
EXCLUDE DEROGATORY  
REFERENCES TO ROUNDUP READY  
CROPS AND OTHER  
BIOTECHNOLOGY**

Trial Date: June 18, 2018  
Time: 9:30 a.m.  
Department: TBD

ELECTRONICALLY  
**FILED**  
*Superior Court of California,  
County of San Francisco*  
**05/24/2018**  
Clerk of the Court  
BY: VANESSA WU  
Deputy Clerk

1 **I. INTRODUCTION**

2 Defendant Monsanto Company (“Monsanto”) respectfully submits this motion *in limine* to  
3 exclude all evidence, argument, or reference to how genetically modified organisms (“GMO”) and  
4 biotechnology, such as Roundup Ready<sup>®</sup> crops, allegedly could harm people or the environment,  
5 or that glyphosate is harmful because it increases the use of Roundup Ready<sup>®</sup> crops. Such  
6 allegations are irrelevant, prejudicial, and intended to sow confusion or provoke fear in jurors.

7 **II. ARGUMENT**

8 Monsanto, an agricultural biotechnology company, markets GMO products. In particular,  
9 Monsanto’s Roundup Ready<sup>®</sup> crops have been genetically engineered to be resistant to  
10 glyphosate-based herbicides. Some environmental activists have claimed that Roundup Ready<sup>®</sup>  
11 and other genetically engineered food products are unsafe for consumption, or less safe than so-  
12 called “organic” food products. Monsanto and others dispute these claims, and the science does  
13 not support such claims. Regardless, the issue of whether “organic” food is better for humans or  
14 for the environment than GMO food is the subject of public debate and is expected to provoke  
15 significant emotional responses from some jurors.

16 That public debate is entirely unrelated to the allegations in this case and should be  
17 excluded. *See* Cal. Evid. Code §§ 210, 350. Plaintiff Dewayne Johnson (“Plaintiff”) claims injury  
18 from the use of Roundup PRO<sup>®</sup> and Ranger Pro<sup>®</sup> herbicides that Plaintiff applied as a certified  
19 applicator for a local school district on non-crop weeds and vegetation. Making derogatory  
20 allegations about Roundup Ready<sup>®</sup> or other GMO crops, or making suggestions that Monsanto is a  
21 “bad” corporate citizen for selling GMO seeds, or suggesting that glyphosate is “bad” because it  
22 increases the use of GMOs, has no conceivable relevance to the case.

23 Moreover, such discussion would be highly prejudicial and could be used only to try to  
24 influence the jury to resolve this case based on political beliefs, or an emotional reaction, rather  
25 than the facts of the case. *See* Cal. Evid. Code § 352. It threatens to create a sideshow about the  
26 propriety of GMOs in agriculture that could seriously distract jurors from the liability issues that  
27 they must decide. Any such evidence or argument should therefore be excluded. *See* Cal. Evid.  
28 Code §§ 210, 350, 352; *Vorse v. Sarsay*, 53 Cal. App. 4th 998, 1009 (1997) (“[E]vidence should

1 be excluded as unduly prejudicial [because] it is of such nature as to inflame the emotions of the  
2 jury, motivating them to use the information, not to logically evaluate the point upon which it is  
3 relevant, but to reward or punish one side.”)

4 **III. CONCLUSION**

5 For the foregoing reasons, the Court should exclude all evidence, argument, or reference to  
6 how GMO biotechnology, such as Roundup Ready® crops, allegedly could harm people or the  
7 environment, or that glyphosate is harmful because it increases the use of Roundup Ready® crops.

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: May 24, 2018

Respectfully submitted,

FARELLA BRAUN + MARTEL LLP

By: 

\_\_\_\_\_  
Sandra A. Edwards

Attorneys for Defendant  
MONSANTO COMPANY