

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® crops, allegedly could harm people or the environment,
5 or that glyphosate is harmful because it increases the use of Roundup Ready® 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® crops have been genetically engineered to be resistant to
10 glyphosate-based herbicides. Some environmental activists have claimed that Roundup Ready®
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® and Ranger Pro® 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® 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