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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. 17 TO  
EXCLUDE IMAGES OF INJURED  
PATIENTS OTHER THAN PLAINTIFF**

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 requests that this Court preclude  
3 Plaintiff from showing images at trial of persons other than Plaintiff who have non-Hodgkin  
4 lymphoma (“NHL”), mycosis fungoides (“MF”), or any cancer. Such images are irrelevant to any  
5 disputed fact of consequence and would unfairly prejudice Monsanto and waste the jury’s and this  
6 Court’s time. Accordingly, the evidence should be excluded. Cal. Evid. Code §§ 210, 350, 352.

7 **II. ARGUMENT**

8 Monsanto anticipates that Plaintiff may seek to introduce photographs or images of  
9 persons other than himself who have NHL, MF, or other types of cancer or injuries. It is  
10 Plaintiff’s specific injury – not anyone else’s injury(ies) – that is the focus of this trial. Any  
11 images of injured patients other than Plaintiff himself have no bearing on whether Plaintiff’s use  
12 of Ranger Pro<sup>®</sup> or Roundup PRO<sup>®</sup> caused his MF, and are irrelevant to Plaintiff’s claims or  
13 Monsanto’s liability in this case. *See* Cal. Evid. Code § 210 (evidence which does not “hav[e] any  
14 tendency in reason to prove or disprove any disputed fact that is of consequence” to this action is  
15 irrelevant); Cal. Evid. Code § 350 (only relevant evidence is admissible). “Case law has  
16 uniformly held where a photograph will not aid jurors it may be excluded” – that is precisely the  
17 case here, as any photographs of other plaintiffs or patients – with similar or dissimilar injuries –  
18 are simply irrelevant to this specific Plaintiff in this specific case. *Hinckley v. La Mesa R.V.*  
19 *Center, Inc.*, 158 Cal.App.3d 630, 645 (1984).

20 Further, such images would serve only to provoke an emotional response from jurors by  
21 showing them images of injured individuals. Such evidence would be extremely prejudicial to  
22 Monsanto, as jurors likely will find it difficult to separate Plaintiff’s actual condition from graphic  
23 photographs of other patients who may have presented with different cancer forms or different and  
24 more severe injuries than Plaintiff has experienced. *See* Cal. Evid. Code § 352; *Vorse v. Sarsay*,  
25 53 Cal. App. 4th 998, 1009 (1997) (“[E]vidence should be excluded as unduly prejudicial  
26 [because] it is of such nature as to inflame the emotions of the jury, motivating them to use the  
27 information, not to logically evaluate the point upon which it is relevant, but to reward or punish  
28 one side[.]”). This Court should not permit this waste of the jury’s and this Court’s time with

1 irrelevant evidence that would do nothing more than inflame the passions of the jury and distract it  
2 from a dispassionate evaluation of the facts.

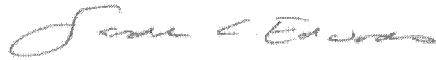
3 **III. CONCLUSION**

4 For the foregoing reasons, the Court should exclude any photographs or images of injured  
5 patients other than Plaintiff himself.

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7 Dated: May 24, 2018

Respectfully submitted,

8 FARELLA BRAUN + MARTEL LLP

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10 By:   
Sandra A. Edwards

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12 Attorneys for Defendant  
MONSANTO COMPANY

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