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12 *Attorneys for Plaintiff*
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. 8 TO EXCLUDE EVIDENCE
OF EXPERT/WITNESS EXPERIENCE
WITH ROUNDUP**

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 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. 8 to exclude evidence of expert/witness experience with roundup (the "Motion"). 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 excerpts from the deposition of Dr. William Sawyer taken on February 26, 2018.

3. Attached hereto as **Exhibit B** is a true and correct copy of excerpts from the deposition of Dr. Michael Sullivan taken on March 5, 2018.

4. Attached hereto as **Exhibit C** is a true and correct copy of excerpts from the deposition of Dr. William Sawyer taken on February 27, 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.

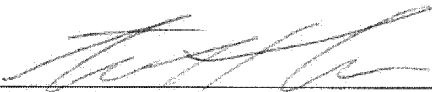
By: 
Curtis G. Hoke,
Declarant

EXHIBIT A

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO
CASE NO.: CGC-16-550128

DEWAYNE JOHNSON,

Plaintiff,

vs.

MONSANTO COMPANY,

Defendant.

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* * * * CONFIDENTIAL * * * * *

VIDEOTAPED DEPOSITION OF WILLIAM SAWYER, PH.D.

Monday, February 26, 2018
8:12 a.m. - 5:04 p.m.

Sanibel, Florida

Stenographically Reported By:
Tracie Thompson, RMR, CRR, CLR
Registered Merit Reporter
Certified Realtime Reporter
Certified LiveNote Reporter

1 Q You're not offering any such opinions in
2 this case, correct?

3 A Only to the extent that the product in this
4 case was mislabeled in the sense that it did not warn
5 of cancer, it was a cancer hazard.

6 Q Anything else?

7 A No.

8 Q You're not a human factors expert, correct?

9 A No.

10 Q You never mixed agricultural grade
11 pesticides?

12 A Have I what?

13 Q Mixed agricultural grade pesticides.

14 A Well, I've mixed Monsanto Roundup on
15 occasions. But when you say "commercial grade," no,
16 I've mixed hardware store grade, not commercial
17 grade.

18 Q And that's for your home use?

19 A Yes.

20 Q You have Roundup at home?

21 A I've had Roundup at home, yes.

22 Q You're not an expert on the mechanics of
23 mixing agricultural grade pesticides, right, other
24 than for your home use?

25 A Repeat that.

1 Q You're not an expert on the mechanics of
2 mixing agricultural grade pesticides?

3 A No.

4 Q What do you use Roundup on at home?

5 A In the past I've used Roundup for control
6 of weeds. And in New York state I've used it to
7 control grass in certain areas on a limited basis.

8 Q Are there any particular types of weeds you
9 use Roundup on?

10 A No.

11 Q When was the last time you used Roundup?

12 A About two months ago.

13 Q Was Roundup effective in your experience?

14 A Yes.

15 Q You've never worked as a pesticide
16 applicator, correct?

17 A No.

18 Q You have never worked as a pesticide
19 applicator?

20 A I said no.

21 Q You've never taught a course on the safe
22 application of pesticides, right?

23 A Not a course. I did, as part of the
24 fourth-year curriculum in Syracuse at Upstate Medical
25 Center, I included toxicity of various pesticides,

EXHIBIT B

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

DEWAYNE JOHNSON,)
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Plaintiff,)
))
vs.) No. CGC-16-550128
))
MONSANTO COMPANY, STEVEN D.)
GOULD, WILBUR-ELLIS COMPANY)
LLC, AND WILBUR-ELLIS FEED,)
LLC,)
))
Defendants.)

*** CONFIDENTIAL ***

DEPOSITION OF MICHAEL SULLIVAN, PH.D.
Los Angeles, California
Monday, March 5, 2018
Volume I

Reported by:
Melissa M. Villagran, RPR
CSR No. 12543
Job No. 2838804
PAGES 1 - 174

1 but in the April, May time period it would not be
2 uncommon for me to go out and spray -- Roundup is
3 something you purchase at Home Depot as an
4 over-the-counter weed killer and so -- or
5 over-the-counter herbicide, sorry. So I probably
6 would buy one of those in the spring and use it.

7 And I don't know whether I would buy more
8 than one a year. I might or might not. But
9 typically it would be part of an arsenal of lawn
10 maintenance.

11 Q Did you use it this past -- or last spring
12 of 2017?

13 A Yeah, my typical end -- winter is over,
14 spring beginning, getting the yard ready, clean --
15 trying to kill those weeds that are starting to come
16 up, I typically would purchase and use it. There's
17 a Home Depot just a couple exits from where I live
18 and I shop there for my yard supplies.

19 Q Did you take any particular safety
20 precautions prior to spraying the Roundup that you
21 purchased?

22 A I usually spray it with whatever I'm wearing
23 when I'm working in the yard.

24 Q Does that include both long pants and shorts?

25 A Yeah. Typical -- if I'm working in the warm

1 weather, I have on tennis shoes and socks and shorts
2 and a T-shirt as a typical outdoor sort of clothes.
3 I wouldn't -- for mowing the lawn and trimming
4 trees, I wouldn't have to put on any particular
5 extra clothes to do that. And if I needed to spray,
6 I would just go to the garage and grab the container
7 and spray where I needed to spray.

8 Q Prior to becoming involved in this
9 litigation, were you aware of any association
10 between glyphosate and non-Hodgkin's lymphoma or --

11 MR. DHINDSA: Objection.

12 THE DEPONENT: No, I was not.

13 BY MR. SULLIVAN:

14 Q Do you recall, going back to Mr. Johnson,
15 when he said the second backpack spraying incident
16 was, what time of year?

17 A The -- my understanding is -- it's clear that
18 there's a Mary Farmer incident and one backpack
19 spray incident. And that one I'm very sure happened
20 post diagnosis. The third one comes out of some of
21 his medical records where the doctors think he's
22 talking about an incident whereas he later on
23 clarifies that he was speaking about his regular
24 application. And so that's why that third incident
25 is very unclear. His deposition tends to suggest

EXHIBIT C

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO
CASE NO.: CGC-16-550128

DEWAYNE JOHNSON,
Plaintiff,
vs.
MONSANTO COMPANY,
Defendant.

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Continued Videotaped Deposition of WILLIAM
SAWYER, PH.D., taken at 1451 Middle Gulf Drive,
Sanibel, Florida, commencing at 8:09 a.m. -
5:57 p.m., Tuesday, February 27, 2018, before
Tracie Thompson, RMR, CRR, CLR, Registered
Merit Reporter, Certified Realtime Reporter,
Certified LiveNote Reporter.

JOB No. 2820385
PAGES 265 - 557

1 BY MR. TRAVERS:

2 Q And attorneys for Monsanto were asking you
3 about your Roundup use. Is there anything you do to
4 minimize your exposure to glyphosate in diet?

5 A Oh, yes. My wife only buys organic. We
6 never buy GMO food. She's very careful about that.
7 I mean, there are times I probably do eat glyphosate
8 in food when I go out. For example, lunch today
9 here, I don't know where that bread came from, but
10 yes.

11 Q With respect to your personal spraying of
12 Roundup, how does your use of Roundup compare to
13 DeWayne Johnson's?

14 MR. DHINDSA: Objection.

15 THE WITNESS: It would be a bread crumb on
16 the floor of a big room. I have a yard which is
17 completely mulch. And as I said, I have only
18 used it once since the hurricane in September.
19 And right now, I don't think there's hardly a
20 weed in the yard. It's fairly clean.

21 BY MR. TRAVERS:

22 Q And you take these extra precautions in
23 your use of Roundup and your dietary exposure because
24 you're aware of a cancer risk with it, correct?

25 MR. DHINDSA: Objection.

1 THE WITNESS: I've been aware of its
2 carcinogenic potential since about 1994. And
3 the first time or two I used it, I was quite
4 concerned about the mist. And I used a wire
5 drill in my workshop and changed my wand so it
6 didn't create a mist. And I've been extremely
7 cautious with the use of it. Even though I
8 don't use much of it, I'm certainly aware of its
9 hazards and am taking precautions.

10 BY MR. TRAVERS:

11 Q Can we go to the Paz-y-Mino study, Exhibit
12 42.

13 A Okay.

14 Q And I'm just looking at the abstract. What
15 was the conclusion of these authors in the abstract?

16 A The results suggest that in the formation
17 used during aerial spraying, glyphosate had a
18 genotoxic effect on the exposed individuals.

19 Q And can you go to the first column, the
20 last paragraph. Does this say whether pure
21 glyphosate was used, or was it a formulation of
22 glyphosate in this study?

23 A It was Roundup Ultra, a herbicide
24 containing glyphosate PEA, which is the tallow amine
25 surfactant and the adjuvant Cosmo-Flux.