1 2	Sandra A. Edwards (State Bar No. 154578) Joshua W. Malone (State Bar No. 301836) Farella Braun + Martel LLP	ELECTRONICALLY
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5 6 7 8 9 10 11	Joe G. Hollingsworth (appearance pro hac vice) Martin C. Calhoun (appearance pro hac vice) Kirby T. Griffis (appearance pro hac vice) William J. Cople (appearance pro hac vice) Hollingsworth LLP 1350 I Street, N.W. Washington, DC 20005 Telephone: (202) 898-5800; Fax: (202) 682-163 jhollingsworth@hollingsworthllp.com mcalhoun@hollingsworthllp.com kgriffis@hollingsworthllp.com wcople@hollingsworthllp.com	BY:VANESSA WU Deputy Clerk
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18 19	SUPERIOR COURT OF TH	IE STATE OF CALIFORNIA
20	COUNTY OF S	AN FRANCISCO
21	DEWAYNE JOHNSON,	Case No. CGC-16-550128
22 23	Plaintiff, vs.	DECLARATION OF SANDRA A. EDWARDS IN SUPPORT OF DEFENDANT MONSANTO COMPANY'S
2425	MONSANTO COMPANY,	OPPOSITIONS TO PLAINTIFF'S MOTIONS IN LIMINE NOS. 4-5, 7-9, AND 12-15
26 27	Defendant.	Trial Date: Time: Department: June 18, 2018 9:30 p.m. TBD
28		Department. I DD

Farella Braun + Martel LLP 235 Montgomery Street, 17th Floor San Francisco, California 94104 (415) 954-4400 34812\6723267.1

	I.	Sandra	Α.	Edwards,	declare	as	follows
--	----	--------	----	----------	---------	----	---------

- 1. I am an attorney duly admitted to practice before this Court. I am a partner with Farella Braun + Martel LLP, attorneys of record for Monsanto Company ("Monsanto"). I submit this Declaration in support of Monsanto's Oppositions to Plaintiff's Motions *in Limine* Nos. 4-5, 7-9, and 12-15.
- 2. Attached hereto as **Exhibit 1** is a true and correct copy of excerpts from the deposition of Dewayne Johnson on Dec. 7, 2017 and Jan. 19-20, 2018.
- 3. Attached hereto as **Exhibit 2** is a true and correct copy of study materials for the Qualified Applicator Certificate exam, produced by Plaintiff in this matter and marked as DJohnson-PSR-004483-525.
- 4. Attached hereto as **Exhibit 3** is a true and correct copy of the RangerPro® Herbicide Label, Complete Directions for Use, EPA Reg. No. 524-517 (Jan. 2010), available at www.cdms.net/LDat/ld6FU017.pdf.
- 5. Attached hereto as **Exhibit 4** is a true and correct copy of excerpts from the expert report of William Sawyer, M.D., dated Dec. 21, 2017.
- 6. Attached hereto as **Exhibit 5** is a true and correct copy of excerpts from the deposition of William Sawyer, M.D., on Feb. 26-27, 2018.
- 7. Attached hereto as **Exhibit 6** is a true and correct copy of excerpts from the expert report of Alfred Neuget, M.D. from *In re: Roundup Prod. Liab. Litig.*, 3:16-md-02741-VC (N.D. Cal.).
- 8. Attached hereto as **Exhibit 7** is a true and correct copy of an Exemplar of Monsanto's Subpoena for Medical Records with Executed Authorization for Release of Medical Records for Non-Kaiser Permanent Records (Identification Information Has Been Redacted).
- 9. Attached hereto as **Exhibit 8** is a true and correct copy of an Exemplar of Monsanto's Subpoena for Medical Records with Executed Authorization for Release of Medical Records for Kaiser Permanent Records (Identification Information Has Been Redacted).
- 10. Attached hereto as **Exhibit 9** is a true and correct copy of excerpts from the deposition of Timothy Kuzel, M.D., on Feb. 17, 2018.

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

Thuursdy, December 7, 2017

Volume I

Reported by: SUZANNE F. GUDELJ

CSR No. 5111

Job No. 2770165

PAGES 1 - 458

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Page 8
       Vallejo, California; Thursday, December 7, 2017
 1
 2
                          9:24 a.m.
                          ---000---
 3
 4
 5
              VIDEO OPERATOR: Good morning. We are
 6
     going on the record at 9:24 on December 8th [sic] of
 7
     the year 2107. This is the beginning of disk 1,
     Volume 1 in the videoed deposition of Dewayne
 8
     Johnson taken by counsel for defendant in the matter
 9
     of Dewayne Johnson v the Monsanto Company. It's
10
11
     filed in the Superior Court, the State of
     California, County of San Francisco, Case
12
13
     CGC-16-550128.
14
              We are at the Courtyard Marriott at 1000
15
     Fairgrounds Drive in Vallejo, California. My name
     is Kevin Four. I'm from Veritext. I'm here with
16
     court reporter Suzanne Gudelj, also from Veritext.
17
18
              Please understand that mics are very
     sensitive and may pick up whispering, private
19
     conversations and cell interference. Audio and
20
21
     video recording will continue to take place unless
22
     all parties agree to go off the record.
23
              I'm not related to any party, nor am I
24
     financially interested in the outcome.
25
              Will counsel please state their
```

- 1 appearances.
- 2 MR. COPLE: William Cople of Hollingsworth
- 3 LLP and Stephanie Salek also of Hollingsworth LLP
- 4 and Sandra Edwards of Farella Braun all representing
- 5 Monsanto Company.
- 6 MR. LITZENBURG: Timothy Litzenburg from
- 7 The Miller Firm for the plaintiff, Mr. Johnson.
- 8 VIDEO OPERATOR: Thank you. If the court
- 9 reporter will please swear the witness, we can
- 10 begin.

11

- 12 DEWAYNE ANTHONY LEE JOHNSON,
- having been administered an oath, was examined and
- 14 testified as follows:

15

- 16 EXAMINATION
- 17 BY MR. COPLE:
- 18 Q Good morning, Mr. Johnson.
- 19 A Good morning.
- 21 moment ago, correct?
- 22 A Correct.
- 23 Q And your name is Dewayne Lee Johnson;
- that's your full name?
- 25 A Dewayne Anthony Lee Johnson. Anthony is in

- 1 you claim from being on the job were based on
- 2 what -- what responsibilities the school district
- 3 gave you as part of hiring you; is that right?
- 4 A So my job was a pretty broad job. It
- 5 started out as a integrated pest manager is what
- 6 it's called, and then I have also some duties as far
- 7 as groundsman or a regular landscaper.
- 8 O We'll talk in more detail about all those
- 9 duties. Just trying to make sure I understand
- 10 that -- that at least one part of your job was to
- 11 apply Ranger PRO.
- 12 A Exactly. That was the main part. It was
- 13 to be a -- to start a program that was supposed to
- 14 stop the use of Ranger PRO and use more natural and
- more controlling things where we're not putting down
- 16 chemicals.
- 17 Q That was your responsibility?
- 18 A Yeah, as the integrated pest manager, I was
- 19 supposed to keep up with that type of stuff.

- 23 Q And the last time that you applied Ranger
- 24 PRO as part of your job at the school district would
- 25 have been in January 2015?

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Page 16
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- 1 A Right before -- I would say like about six
- 2 months before I was totally left the job after I was
- 3 repositioned to the high school. I think that was
- 4 in -- I don't know exactly, but late summer that
- 5 was, but they moved me to the high school, getting
- 6 ready for another spring --
- 7 (Reporter clarification.)
- 8 And that was about -- I guess that was
- 9 about six months before -- before I start spraying,
- 10 before I got transferred to the high school for some
- 11 temporary work over there until I was done and went
- 12 on full Workmen's Comp.

19 Q So you kept using or applying Ranger PRO as

- 20 part of your job?
- 21 A Yeah, my job didn't kind of accept that I
- 22 had gotten cancer there, so they get me -- give me
- 23 the same responsibilities, so -- so I told them
- 24 that, you know, I'm kept on this treatment now, and
- 25 I talked to the doctors, and they said you can't

- 1 A They should.
- 2 Q Okay. And you have no other records that
- 3 you kept on your own that you still have?
- 4 A That wouldn't be legal, no.
- 5 Q Did you have any records at any point about
- 6 your job responsibility with Ranger PRO that you
- 7 used to have but you don't have anymore?
- 8 A Well, plenty. Because I took more classes
- 9 --
- 10 (Reporter clarification.)
- The beginning word?
- 12 Yes, plenty, because I had to go through
- 13 all those trainings and all those classes. So
- 14 plenty. Not up training but plenty. Yeah, so I had
- 15 to take all those classes and all those courses so I
- 16 learned a lot. I learned a whole heck of a lot.
- 17 BY MR. COPLE:
- 18 Q And this was not the training you received
- 19 from Leanna, right?
- 20 A Leanna was through the school district.

11 Q Is there a reason that you failed the test

12 each time?

13 A It's a pretty hard test.

14 Q And when did you take these tests? When

was the first time you took the test?

16 A The test, I don't know exactly the first

17 time I took that test, but the test comes around --

18 like it might be in Sacramento today. It might be

19 in Santa Rosa tomorrow. It might be in Santa Maria

20 next week. You have to chase it down because it's

21 going to go that way but --

22 Q Yes, but when, when was the first that you

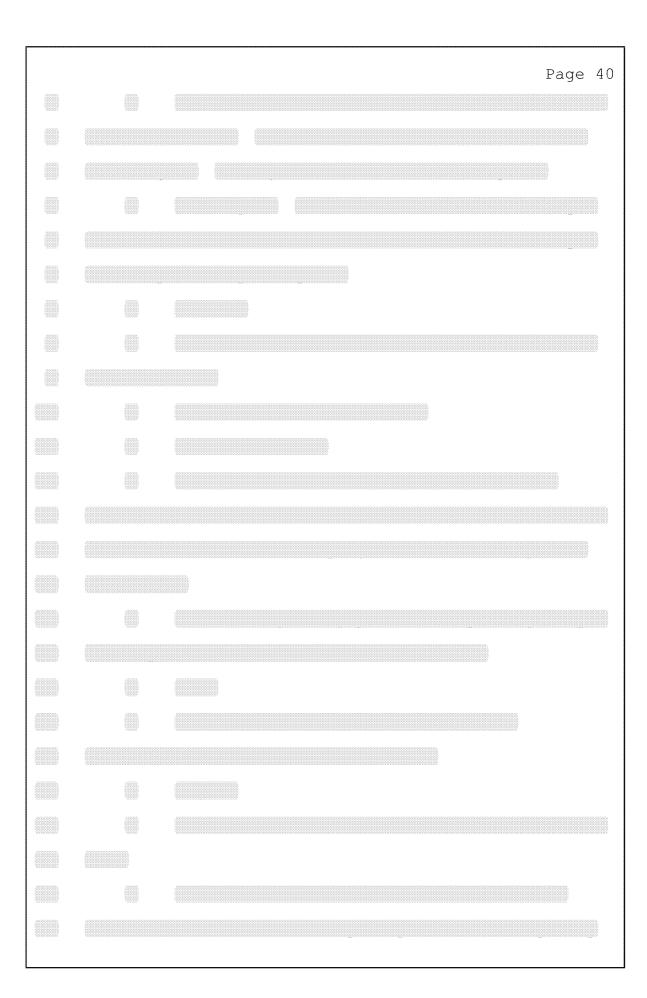
23 took the test?

24 A When I first started up there, it was a few

25 months after Leanna came and all that. I don't want

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Page 39
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- 1 to guess, but it was like a few months after I got
- 2 hired as a pest control manager.
- 3 Q So sometime after June 2012; have I got
- 4 that right?
- 5 A I don't know. But, you know, I did have a
- 6 copy of something like that I didn't really
- 7 give to Tim that should have -- it could show my
- 8 first time taking the test.
- 9 Q And you still have that paperwork?
- 10 A I do.
- 11 Q And you have not turned that over to your
- 12 attorney?
- 13 A Nobody asked me for that.



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Page 41
              Why did they need you to have it?
 8
 9
              It's a legal requirement.
         Α
10
              Legal requirement to spray Ranger PRO?
         Q
              Certain amount of gallons, if you are over
11
         Α
     the gallon mark.
12
13
              Okay. And you were able to spray Ranger
14
     PRO without having that license?
              Yeah. That's what I did.
15
              How were you able to do that if it was a
16
17
     legal requirement?
18
         Α
              What Roy said --
19
              MR. LITZENBURG: Objection. Form.
20
              THE WITNESS: What Roy said the reason why
21
     we could spray without me having a license is
22
     because he had a license, so I was basically
23
     spraying under him. So because he had a certified
```

applicator certificate, I didn't need one.

24

25

BY MR. COPLE:

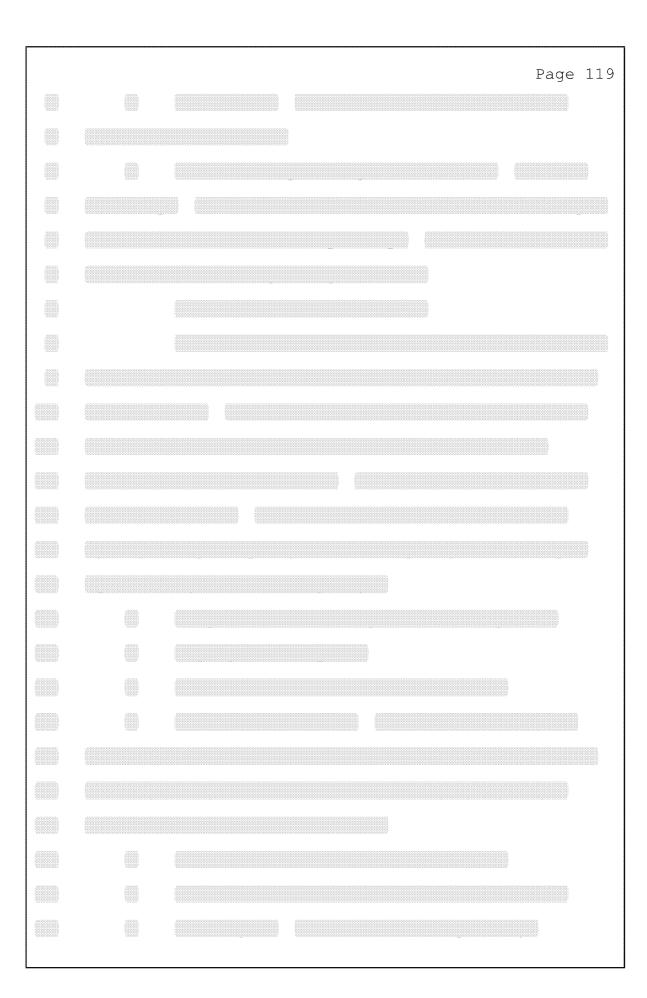
- 1 that every time.
- 2 Q And what would be a reason that you would
- 3 look at that?
- 4 A 'Cause you've done it so many mornings that
- 5 you know you're supposed to have your PPE on.
- 6 You're not supposed to be out there smoking a cigar
- 7 next to your tank, you know. It's not something
- 8 that you play around with, but it's not something
- 9 that you have to go check in that circle -- I mean,
- 10 the square and the product and all that and how much
- 11 product is in the product. You don't need that, you
- 12 know, but you do need your safety stuff.
- 13 Q Did you smoke cigars?
- 14 A No, no, no.
- 18 (Reporter clarification.)
- 19 Black & Milds. Black & Milds.
- 20 Q Can you spell that for the court reporter?
- A B-1-a-c-k, M-i-1-d.
- Q Okay. Now you stopped smoking those cigars
- 23 in 2006 according to your medical records, right?
- 24 A Yeah.
- 25 Q Am I right?

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Page 76
              It was hurting my -- it was hurting me. I
         Α
 1
     shouldn't have been smoking that stuff.
 2
 3
              All right. And in 2006, you would have
         Q
     been basically 30 -- 34 years old; is that about
 4
 5
     right?
             2000 what?
 6
        Α
              2006. You were 42 when you were diagnosed
 7
         Q
 8
     with --
 9
        Α
             Yeah.
              -- with non-Hodgkin's lymphoma, so 2006
10
    would have been -- basically you were 34, right?
11
12
         Α
              Yep.
13
              All right. And how many years did you
         Q
     smoke these cigars?
14
15
         Α
              Maybe like two years.
16
             Only two years?
         Q
17
        Α
              Yeah.
```

```
Page 77
8
             Did you go to a doctor about this --
        Q
9
        Α
             Nah.
10
             -- green fluid that was being --
        Q
             It was obvious.
11
        Α
12
             -- in your spittle?
        Q
13
        Α
             It was obvious. I had to cut those cigars
14
    out.
             Did you chew tobacco?
15
16
             No. These cigars have pipe tobacco inside,
        Α
17
    you know, so that was the lure was the smell. Smell
18
    like a pipe.
             All right. Did you smoke a pipe at any
19
        0
20
    time?
21
        Α
             No. I love the way it smells though.
22
             Okay. And you didn't use snuff?
        Q
23
        Α
             No.
24
        Q
            All right. And cigarettes, did you use
25
    those?
```

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Page 118
```

- 1 had it; if not, they didn't, you know, so it wasn't
- 2 like something that's permanent.
- 3 Q Which union did you belong to?
- 4 A I think it's called the Local 302 out of
- 5 Oakland.
- 6 Q And what does the union cover, what type of
- 7 work?
- 8 A Waterproofers, roofers. What's it called,
- 9 wall -- so something that's under the walls. You
- 10 do -- you take the concrete out of the wall and put
- 11 it back in. I think I want to call it sparing. I
- 12 don't know what it's called, wall sparing.
- 13 Q Okay.
- 14 A Some type construction thing that they do,
- 15 they fix holes, and you can see them with a camera,
- 16 and you go back and fix them.
- 17 Q All right. Are you still a member?
- 18 A No.



```
Page 120
12
                     Now, I asked you previously if you'd
              Okay.
         Q
13
     ever been diagnosed with cancer other than mycosis
     fungoides. Did you just forget about --
14
              Yeah, I did, because --
15
16
         Q
              Okay.
17
              -- that came before -- that came all at the
18
     same time.
19
              All right.
         Q
20
              That came as part of the -- when they --
         Α
21
         Q
              Let me just be sure, because we need to
22
     have a complete record --
```

-- so that -- that you and I don't have to

go back and clarify things like this. So you were

23

24

25

Α

Yeah.

1	what why were you contacting Monsanto if
2	you didn't
3	A It was before the '14 or before whenever
4	they say I got diagnosed
5	Q What
6	A because I had the lesion. I had
7	remember I had those marks already on my body?
8	Q All right. So you were telling the
9	secretary about your symptoms
10	A Yeah. 12:06:31
11	Q but not the diagnosis because you didn't
12	have it yet?
13	A No.
14	Q Okay.
15	A Oh, wow. 12:06:41
	Page 173

	Page 174

Pag	ge 175



	p	
4	Q Did anybody tell you to sue Monsanto?	
5	A What?	12:10:29
6	Q Did anybody tell you to sue Monsanto?	
7	A Nobody told me but myself.	
8	Q All right.	
9	A Actually, I saw the opposite. Told me	
10	don't go after Monsanto by a lot of people who I	12:10:37
11	trust and love who said don't you do it.	
12	Q None of your doctors that have treated you	
13	have have told you that Ranger PRO causes mycosis	
14	fungoides, right?	
15	A They won't say.	12:10:58
16	Q I didn't get that.	
17	A They won't say.	
18	Q They won't say. So none of them have said	
19	that to you?	
20	A You can ask them, and they won't rule it	12:11:06
21	out they won't rule it out, and they won't rule	
22	it in, and they won't answer it.	
23	Q And you're aware that there's no medical	
24	basis for what causes mycosis fungoides?	
25	MR. LITZENBURG: Object to form. You can	12:11:18
	Pa	ıge 177

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Page 325
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- 1 A "What pesticides." Okay.

- 15 Q Okay. And that's because Roundup had been
- 16 already -- was already being used by your
- 17 supervisor?
- 18 A Yeah, they were using that.
- 19 Q If you go to the next page and go to block
- 20 19, which is in the upper right, if you go down to
- 21 line 24. And the question is:
- 22 "You needed certification for that
- position?"
- Do you see that?
- 25 A Mm-hmm, yes.

1	I, the undersigned, a Certified Shorthand
2	Reporter of the State of California, do hereby
3	certify:
4	That the foregoing proceedings were taken
5	before me at the time and place herein set forth;
6	that any witnesses in the foregoing proceedings,
7	prior to testifying, were duly sworn; that a record
8	of the proceedings was made by me using machine
9	shorthand which was thereafter transcribed under my
10	direction; that the foregoing transcript is a true
11	record of the testimony given.
12	Further, that if the foregoing pertains to
13	the original transcript of a deposition in a Federal
14	Case, before completion of the proceedings, review
15	of the transcript [] was [] was not requested.
16	I further, certify I am neither financially
17	interested in the action nor a relative or employee
18	of any attorney or party to this action.
19	IN WITNESS WHEREOF, I have this date
20	subscribed my name.
21	Dated: December 18, 2017
22	
23	Surpene F. Gudelj.
24	SUZANNE F. GUDELJ
25	CSR No. 5111

1	SUPERIOR COURT OF THE STATE OF CALIFORNIA
2	COUNTY OF SAN FRANCISCO, UNLIMITED JURISDICTION
3	000
4	
5	DEWAYNE JOHNSON,)
6)
	Plaintiff,)
7	v.) Case No. CGC-16-550128
8)
9	MONSANTO COMPANY,)
10)
11	Defendants.)
12)
13	
14	
15	DEPOSITION OF DEWAYNE JOHNSON
16	Vallejo, California
17	VOLUME 3
18	Saturday, January 20, 2018
19	
20	
21	Reported by:
22	Alisa A. James
23	CSR No. 10901
24	Job #2795471
25	Pages 588 - 779
	Page 588

1	Plaintiff, Lee Johnson.	09:14:00
2	MR. COPLE: William Cople and Stephanie	09:14:01
3	Salek, both of Hollingsworth, LLP. Both for	09:14:03
4	Monsanto.	09:14:07
5	The court reporter may now swear in witness.	09:14:09
6	THE WITNESS: Yes.	09:14:20
7	DEWAYNE JOHNSON,	09:14:20
8	called as a witness for the Plaintiff,	09:14:20
9	having been duly sworn, testified as follows:	09:14:20
10		09:14:20
11	EXAMINATION	
12	BY MR. LITZENBURG:	09:14:22
13	Q Good morning. Would you please state your	09:14:22
14	whole name for the record?	09:14:23
15	A My name is Dewayne Anthony Lee Johnson.	09:14:26
16	Q Okay. And, Mr. Johnson, I'm going to say	09:14:29
17	for the camera that my name is Timothy Litzenburg from	09:14:33
18	the Miller Firm.	09:14:37
19	Is it correct that I'm your lawyer in this case?	09:14:38
20	A That is correct.	09:14:40
21	Q Okay. Now what I'm going to do is ask you	09:14:41
22	some questions this morning, so that the jurors can	09:14:43
23	hear from you in the trial in this case, in case you're	09:14:46
24	not able to speak with them.	09:14:49
25	Is that okay?	09:14:51
		Page 596

1	that you would mix tanks or backpacks for	10:44:43
2	Mr. Martinez or Mr. Sapp?	
3	A. No, sir.	
4	Q. When you were doing the mix, where did you	
5	do it?	10:44:53
6	A. At the yard or sometimes at the site	
7	location we're spraying at.	
8	Q. So when you say "at the yard" outdoors?	
9	A. Always outdoors.	
		Page 537

		300000000000000000000000000000000000000
12	Q. Would you wash those clothes every day?	
13	A. Yes.	
14	Q. There was never an occasion that you	
15	would, for whatever reason, wear your work clothes	10:45:57
16	under the Tyvek suit for a consecutive day or until	
17	the next spraying without being washed?	
18	A. No. The only thing I didn't like I	
19	mean, you didn't ask me whether I liked it or not.	
20	But I didn't like the fact that we would spray in	10:46:10
21	the morning and we would keep on our work clothes	
22	under the clothes that we sprayed with. Like the	
23	Tyvek suit would cover up our work clothes.	
24	We would go out and we spray in the	
25	morning, and then we go back to work because that	10:46:22
		Page 538

1	took to spray for the district.	09:37:45
2	BY MR. LITZENBURG:	09:37:47
3	Q And what is that license called?	09:37:48
4	A Um, there's a couple of different	09:37:50
5	categories, but it's basically a QAL, I think, or QAC.	09:37:54
6	Q Okay.	09:38:01
7	A I'm not sure, but it's one of the two.	09:38:01
8	THE REPORTER: That's what, I'm sorry?	09:38:01
9	THE WITNESS: That's qualified I think	09:38:01
10	it's a QAC, Qualified Applicator Certificate.	09:38:07
11	QAC.	09:38:11
12	BY MR. LITZENBURG:	09:38:12
13	Q And to get that certificate, did you have to	09:38:13
14	take a test?	09:38:15
15	A Yeah, there's several tests that you take.	09:38:16
		\$

6	MR. COPLE: Objection, lacks foundation.	09:38:56
7	Asked and answered.	09:38:57
8	THE WITNESS: Yes. I learned a lot about	09:38:58
9	labels, and how to read them, and understand that	09:39:01
10	these are legal documents.	09:39:04
11	BY MR. LITZENBURG:	09:39:06
12	Q And were there classes, or books, or	09:39:07
13	studying that was involved before taking this test?	09:39:10
1 3	beau, ing ende was involved selecte carring ents eese.	03.03.110
14	MR. COPLE: Objection, asked and answered.	
		09:39:12
114		09:39:12
114	MR. COPLE: Objection, asked and answered.	09:39:12
114	MR. COPLE: Objection, asked and answered.	09:39:12
114	MR. COPLE: Objection, asked and answered.	09:39:12

2	BY MR. LITZENBURG:	09:39:45
3	Q Okay. Mr. Johnson, did you eventually pass	09:39:45
4	that test successfully?	09:39:48
5	MR. COPLE: Objection, asked and answered.	09:39:50
6	THE WITNESS: Yes. Over several months, and	09:39:51
7	at least a year, it took me to and a couple of	09:39:52
8	fails. I think it took me two fails, and then	09:39:56
9	the third one is when I passed.	09:39:57
10	BY MR. LITZENBURG:	09:39:59
11	Q Okay. In the context of your job as an	09:39:59
12	integrated pest manager at Benicia Unified School	09:40:05
13	District, did you ever receive any education or	09:40:07
14	training about Ranger Pro?	09:40:12
15	MR. COPLE: Objection, asked and answered.	09:40:14
16	THE WITNESS: The only training that I was	09:40:16
17	given about Ranger Pro was with Ms. Leanne	09:40:20
18	Schroeder (phonetic), who came in to our district	09:40:23
19	office and gave the three of us me, and two	09:40:27
20	other guys that were to apply chemicals. And	09:40:31
21	the Schroeder class usually lasts, you know, not	09:40:35
22	all day, it was a short class.	09:40:40
23	And she gave us information about the	09:40:41
24	product that she basically sold through Horizon,	09:40:43
25	about how to apply the different things about	09:40:47
		Page 620

1	A No.	12:01:26
2	MR. COPLE: Objection, asked and answered.	12:01:27
3	THE WITNESS: I would never use anything	12:01:29
4	that says it causes cancer.	12:01:31
5	BY MR. LITZENBURG:	12:01:32
6	Q Would you have used it if it said it caused	12:01:33
7	Non-Hodgkin Lymphoma?	12:01:35
8	MR. COPLE: Objection, asked and answered.	12:01:38
9	THE WITNESS: No.	12:01:39
10	BY MR. LITZENBURG:	12:01:39
11	Q Would you have used it if it said it causes	12:01:39
12	mycosis fungoides?	12:01:44
13	MR. COPLE: Objection, asked and answered.	12:01:46
14	THE WITNESS: No.	12:01:47
15	BY MR. LITZENBURG:	12:01:47
16	Q Would you have used it if it may cause those	12:01:48
17	conditions?	12:01:50
18	MR. COPLE: Objection, asked and answered.	12:01:51
19	THE WITNESS: No.	12:01:52
20	BY MR. LITZENBURG:	12:01:52
21	Q Okay. Now, we've talked about your	12:01:53
22	continued use of the product after your cancer	12:01:55
23	diagnosis, and even after those telephone calls, right?	12:02:00
24	A Yes.	12:02:04
		Page 715

9	BY MR. LITZENBURG:	12:02:33
10	Q Okay. And, again, you would have been aware	12:02:33
11	of any significant changes to the safety information of	12:02:35
12	this product because of your job, right?	12:02:39
13	MR. COPLE: Objection, calls for	12:02:41
14	speculation. Lacks foundation.	12:02:42
15	THE WITNESS: Yeah, we would always be, as	12:02:43
16	part of the job, to be knowing about what the	12:02:48
17	changes that go on from year to year.	12:02:51
18	BY MR. LITZENBURG:	12:02:54
19	Q Okay. And so, for example, that medical	12:02:54
20	record where Carrie Chanson went over the MSDS to see	12:02:57
21	if things were related, if she'd reported to you after	12:03:02
22	looking at it, I just found out that this causes can	12:03:05
23	cause cancer, would you have stopped using the product	12:03:08
24	at that time?	12:03:11
25	MR. COPLE: Objection, calls for	12:03:13
		Page 716

1	REPORTER'S CERTIFICATE
2	
3	I, ALISA A. JAMES, CSR No. 10901, Certified
4	Shorthand Reporter, certify;
5	That the foregoing proceedings were taken
6	before me at the time and place therein set forth, at
7	which time the witness was put under oath by me;
8	That the testimony of the witness, the
9	questions propounded, and all objections and statements
10	made at the time of the examination were recorded
11	stenographically by me and were thereafter transcribed;
12	That the foregoing is a true and correct
13	transcript of my shorthand notes so taken.
14	I further certify that I am not a relative or
15	employee of any attorney of the parties, nor
16	financially interested in the action.
17	I declare under penalty of perjury under the
18	laws of California that the foregoing is true and
19	correct.
20	Dated this 26th day of January, 2018.
21	
22	
23	Alian Phille James
24	John Johnse Vamer
25	ALISA A. JAMES, CSR No. 10901
	Page 779

REVIEW QUESTIONS

- 1. Which of the following agencies certifies QACs and QALs?
 - a. The county Agricultural Commissioner
 - b. The U.S. EPA
 - The California Department of Pesticide Regulation
 - d. The University of California system
- 2. What does the statement "direct supervision" on the pesticide label mean?
 - a. Physically present during mixing, loading, and application activities only
 - b. Working under someone with more experience
 - c. Physically present during cleaning and repair of equipment
 - d Physically present during mixing, loading, application, and during cleaning and repair of equipment
- 3. Which of the following is not a restricted-use pesticide with the "direct supervision" statement on the label requiring a qualified applicator to be present?
 - a. Aluminum Phosphide
 - b. Methyl Parathion
 - c. Metasystox-R
 - d. Malathion
- 4. What is the purpose of pesticide applicator certification?
 - a. To test applicators
 - b. Allow applicators to demonstrate they are capable of handling and applying pesticides safely
 - c. To meet federal standards
 - (a) Both b and c
- 5. What is the difference between the QAC and QAL?
 - a. The OAL exam is more difficult
 - (b) A person having a QAC does not usually own the business
 - c. The cards are different colors
 - d. All of the above

6. Why do some pesticides require "direct supervision" by a QAC, QAL, or JPC?			
 a. These pesticides are hard to get and are very expensive b. Certified applicators have more experience These pesticides are highly hazardous and certified applicators have demonstrated knowledge of proper ways of handling and using these pesticides d. Certified applicators are smarter than other applicators 			
7. How many hours of continuing education must a QAC with the Plant Agriculture Pest control category obtain to recertify?			
 a. 10 hours each year b. 20 hours each year c. 20 hours every two years d. 20 hours each year with 5 hours in laws and regulations 			
8. At least how many hours of the laws and regulations?			
a 20 hours every two years			

- b. 2 hours each year
- C At least thinks e
- d. At least 1/2 of all continuing education you receive
- 9. Who sets the standards for certified applicators in California?
 - a. The state Legislature
 - b. The County Agricultural Commissioner
 - The California Department of Pesticide Regulation and the U.S. EPA
 - d. None of the above
- 10. Before a pesticide dealer can sell a restricted-use pesticide, what must the dealer have from the purchaser?
 - a. The name of the person using the pesticide
 - A copy of the restricted materials permit
 - c. The name and location of the commercial applicator that will apply the pesticide
 - d. The operator identification number

Answers:

1. c	4. d	7. c	10. b
2. d	5. d	8. c	
3. d	6. c	9. c	



WHAT ARE PESTICIPES?

5 regulator slows

According to DPR, substances are considered if they:

- defoliate plants; or
- regulate plant growth (plant growth regulators of "PGRs")
- +unoral 64

The term "mode of action" refers to the specific way that the pesticide controls its target pest. Here are several different types of pesticide modes of action:



central nervous system poisons anticoagulants (blood thinners) cell division disruption -

The following groups of chemicals are all pesticides:

- insecticides
- fungicides
- herbicides
- acaracides (control mites)
- rodenticides (control rodents)
- disinfectants (control bacteria or viruses)
- toilet bowl cleaners

PESTICIDE TOXICITY

Pesticide toxicity is...

- LC = Lethal tration a chemical characteristic such as boiling point or molecular weight
- the capacity of the pesticide to cause harm or injury
- a measure of its potency or strength compared to other pesticides
- commonly measured by its LD50 or LC50 WALL

The LD₅₀ is the dose of a pesticide required to kill 50% of a test population of animals. LD50s are expressed as milligrams (mg) of the pesticide per kilograms (kg) of body weight, or mg/kg. "Lethal concentration" is the concentration of a chemical

in water or air, expressed as LC50, measured in micrograms (µg) per milliliter (ml) MEMORITA

7



or µg/ml. These values are established by laboratory animal studies and vary with the species, age, sex, and environmental surroundings of the test animal.

The term 'grant'y" refers to the effects of exposures (i.e. 24 hours). refers to the effects of exposure (i.e. years). Chronic exposure to pesticides may cause the following types of effects:

- Tumors
- Cancer
- Nerve disorders
- Birth defects of offspring

The No Observable Effect Level (NOEL) is the maximum dose or exposure level of a pesticide that has no detectable effect on a test population. NOEL values are used to establish legal resides (tolerances) of pesticides in food. These tolerances have safety margins 100 to 1000 times the NOEL.

PESTICIDE CATEGORIES AND ELASSIFICATION

categories. Pesticide toxicity categories (see Table 2-1) are designated by the following signal words bigger Roman Dumeral on the pesticide label:

Category I, DANGER.

Category II, WARNING.

Category III, CAUTION.

Specific hazard classifications, such as severe skin or eye irritation or injury may make a pesticide with low toxicity (high LD50) a Category I pesticide.

All pesticides have one of the signal words "DANGER," "WARNING," or "CAUTION" on the label, corresponding to the toxicity category,

Pesticide Toxicity Categories

1 csuciue Toxicity Categories				
HAZARD INDICATORS :	I or 1 DANGER	II or 2 WARNING	III or 3 CAUTION	
(818				
Inhalation LC ₅₀	0.2 μg/ml or less	From 0.2 - 2 μg/ml	From 2 - 20 μg/ml •	
Dermal LD ₅₀	200 mg/kg or less	200 - 2,000 mg/kg	2,000 - 20,000 mg/kg	
Eye effects	Corrosive	irritation persisting for 7 days	irritation reversible within 7 days	
Skin effects	Corrosive	Severe irritation at 72 hours	moderate irritation at 72 hours	

RESTRICTED USE PESTICIDES

Pesticides that are potentially more hazardous than other general-use pesticides are classified as restricted-use pesticides. All federally restricted-use pesticides have the "RESTRICTED USE PESTICIDE" statement in a box located on the label (see sample label). This classification is based on:

- High toxicity or other serious health effects
- Use of pesticide
- Harmful effects on the environment

In California, in addition to federally restricted-use pesticides, there are California restricted-use pesticides, both state and federally restricted-use pesticides are considered **restricted materials** in California. If you have any questions whether or not a pesticide is a restricted material, check with your local Commissioner. Before you can buy a restricted-use pesticide or restricted material, you must have a Restricted Material Permit from the Commissioner.

THE PESTICIDE LABEL

The pesticide label and all supplementary labeling that prescribes how that pesticide is to be used are legal documents. Pesticide labeling includes the pesticide label and all supplementary printed information that may be affixed to or enclosed in packets on the pesticide container. During any pesticide application (mixing, loading, or application) the pesticide label must be present at the job site.

Parts of the Pesticide Label

- 1. Brand Name The name the manufacturer gives the product.
- 2. Formulation The type of formulation such as emulsifiable concentrate, wettable powder, or soluble powder (see Pesticide Formulation below).



- 3. Registration and Establishment Numbers The numbers the U.S. EPA and California Department of Pesticide Regulation assign to a pesticide.
- 4. Ingredients Listed as the percentages of active and inactive materials in the product.
- 5. Common Name The common name used for that pesticide
- 6. Chemical Name Describes the chemical structure of the pesticide, and follows established rules for naming chemicals.

- 7. Signal Word Indicates the toxicity of the pesticide. DANGER category 1, WARNING category 2, and CAUTION category 3.
- 8. Statement of Use Classification There are two classifications of use for pesticides "General Use" and "Restricted-Use." These classifications are determined by the U.S. EPA.
- 9. Statement of Practical Treatment Tells what to do if someone is exposed to the pesticide.
- 10. Precautionary Statement Describes the hazards associated with the pesticide
- 11. Manufacturer All pesticide labels have the name and address of the manufacturer.
- 12. Directions for Use Lists all the target pests that the pesticide has been registered to control, plus the crops, plants, animals, or other sites and uses.
- 13. Misuse Statement A reminder to users to apply pesticides according to the label directions.
- 14. Reentry The restrictions on how much time must pass before a person can enter the treated area after the pesticide is applied.
- 15. Contents Lists the net contents, by weight or liquid volume, within the package.
- 16. Storage and Disposal Directions Indicates the proper storage and disposal of the pesticide and containers.
- 17. Warranty A disclaimer the manufacturer puts on pesticide labels.

Buggoff_® 4 EC

Insecticide

EPA Reg. No. 10854-2-549 EPA EST. No. 10854-1000

Active Ingredient:

 Parathion: O,O-dimethyl O-4-nitrophenly phosphorothiolate
 20%

 Inert Ingredients:
 80%

This product contains 4 lbs of Parathion per gallon.

KEEP OUT OF REACH OF CHILDREN

DANGER

RESTRICTED USE PESTICIDE

Due to very high acute toxicity to humans and birds

For retail sale to and use only by certified applicator or persons under their direct supervision and only for those uses covered by the certified applicator's certification. Direct supervision for this product is defined as the certified applicator being physically present during applications, mixing, loading, repair and cleaning of application equipment. Commercial certified applicators must also ensure that all persons involved in these activities are informed of the precautionary statements.

STATEMENT OF PRACTICAL TREATMENT

If in eyes, flush with plenty of water for 15 minutes and get medical attention.

If swallowed, drink 1 or 2 glasses of water and induce vomiting by touching back of throat with finger. Do not induce vomiting or give anything by mouth to an unconscious person. Get medical attention.

If inhaled, remove patient from contaminated area and get medical attention.

If on skin, remove contaminated clothing and wash skin with soap and water.

For Emergency Assistance Call Poison Control

PRECAUTIONARY STATEMENTS

Hazards to Humans and Domestic Animals

Danger

Corrosive, causes eye damage. Do not get in eyes. Wear goggles or face shield. Harmful if swallowed. Do not inhale spray mist. Avoid contact with skin. After handling, wash thoroughly with soap and water.

ARENA Pesticide Management

P.O. Box 4817 Davis, CA 95616

Environmental Hazards

Keep out of lakes, ponds and streams. Do not contaminate water by cleaning of equipment or disposal of wastes. Apply this product only as specified on this label.

DIRECTIONS FOR USE

It is a violation of Federal law to use this product in a manner inconsistent with its labeling. For use as a insecticide for the control of insects.

Do not apply this product in such a manner as to directly or through drift expose workers or other persons. The area being treated must be vacated by unprotected persons.

REENTRY

Do not enter treated areas without protective clothing until spray has dried.

Protective clothing means, at least, a hat or other suitable head covering, a long sleeved shirt and long legged trousers or a coverall type garment (all closely woven fabric covering the body, including the arms and legs), shoes and socks.

Apply when pests first appear and repeat as necessary. Use sufficient solution to thoroughly cover foliage. By ground use 200 gallons water carrier per acre, and by air apply 5 to 10 gallons of water carrier per acre.

Apples: Codling Moth - Use 2 pints. Eyespotted Bud Moth, Forbes Scale, Woolly Aphid - Use 1 pint. Tent Caterpillars - Use 1 to 1 1/2 pints. Mealybug - Use 1 to 2 pints. Green Apple Aphid, Rosy Apple Aphid - Use 1 1/2 pints. For Codling Moth control apply at petal fall and every 10 to 14 days thereafter until control is achieved. Applications of this material may cause injury to McIntosh and related varieties of apples.

Ornamentals: Aphids, Whitefly, Mealybug - Use 1 1/2 pints per 100 gallons of water. Birch Leafminer, Bagworms, Tent Caterpillars, Brown Soft Scale and Monterey Pine Scale - Use 2 1/2 pints per 100 gallons of water. Apply to completely cover foliage.

Net Contents 2 1/2 Gallons

STORAGE AND DISPOSAL

Pesticide Storage

Do not Store below 40°F.

Do not use or store near heat, or open flames.

Keep out of reach of children and animals. Store in original containers only. Store in a cool, dry place and avoid excess heat. Do not put concentrate or dilute material into food or drink containers. Do not contaminate other pesticides, fertilizers, water, food, or feed by storage or disposal.

In case of spills, avoid contact, isolate area and keep out animals and unprotected persons. Confine spill by diking surrounding area or absorbing with sand, cat litter or commercial clay. Place damaged package in a holding container and identify the holding container.

Pesticide Disposal

Waste resulting from the use of this product may be disposed of on site or at an approved waste disposal facility.

Container Disposal

Triple rinse (or equivalent). Then offer for recycling or recondition, or puncture and dispose of in a sanitary landfill, or incinerate, or, if allowed by state and local authorities, by burning. If burned, stay out of smoke

CONDITIONS OF SALE AND WARRANTY

ARENA warrants that this product conforms to its chemical description and is reasonably fit for the purpose stated on the label only when used in accordance with the label directions. ARENA makes no other express or implied warranties. Handling, storage and use of this product by Buyer or User are beyond the control of ARENA and Seller. Risks such as crop injury, ineffectiveness or other unintended consequences resulting from, but not limited to, weather or soil conditions, presence of other materials, disease, pests, drift to other crops or property or failure to follow label directions will be assumed by the Buyer or User.

PESTICIDE FORMULATIONS

Most pesticide products are mixtures (formulations) of active ingredients (the pesticide) and inert or inactive ingredients. The inactive ingredients are added to the formulation to help the active ingredients work better. Common inactive ingredients include solvents, stickers and wetting agents.

Here are some different types of pesticide formulations:

- Wettable Powders (W or WP) Active ingredient combined with finely ground dry carrier, usually mineral clay. The pesticide is suspended in water and does not dissolve. Wettable powders take the most agitation to keep in suspension, requiring both hydraulic and mechanical agitation.
- Emulsifiable Concentrate (EC or E) Oil base petroleum compounds that have emulsifying agents added to them so they will mix with water. Emulsifiable concentrates are absorbed through the skin faster and can be more of a hazard than other formulations.
- Soluble Powders (S or SP) Will completely dissolve in water to form a true solution.
- Dry Flowable (DF) Much like wettable powders, but the active ingredient is combined with larger granules that must be mixed with water before use. The pesticide is suspended in water and does not dissolve.
- Flowable (F) A combination of finely ground pesticide particles are mixed with a liquid containing emulsifiers to form a concentrated emulsion.
- Water-Soluble Concentrates or Solutions (S) Solutions that dissolve in water.
- Ultra-Low-Volume Concentrate (ULV) Are highly concentrated pesticide solutions, often 80 to 100% active ingredient, frequently applied as concentrated materials.
- Slurry (SL) A thin watery mixture of finely ground dust like particles...
- Dust (D) Finely ground pesticide combined with clay carriers. Most dust formulations are between 1 to 10% active ingredients and applied in dry form.
- Granule (G) A combination of active ingredients and a carrier between 4 and 80 mesh in size. Broadcasted onto the ground as small pellets.

 Pellet (P or PS) - Same as granule but made of larger and more uniform weights and shapes. Broadcasted onto the ground as pellets.

ADJUVANTS

An adjuvant is anything added to the tank mix to enhance and/or modify the physical properties of the pesticide.

formulation or are added to the tank mix solution. Some common adjuvants are:

to make it

- Buffering agents adjust the pH of spray solution
- Thickening agents reduce spray drift
- Spreaders improve wetting ability and spray droplet deposition
- Stickers improve weatherability of pesticides and droplet deposition
- Compatibility agents aid mixing or reduce tank mix incompatibility

PESTICIDE INCOMPATIBILITY

Some pesticides do not mix well with others. Just like water and oil, they separate out leaving water and oil phases leading to uneven mixtures with oily clumps or solids settling out or floating on top of the spray tank, resulting in plugged spray equipment and uneven spray distribution. When pesticides do not mix together or cause some undesired toxic effect on the target they are incompatible. To avoid this:

- Read and follow label instructions
- Use the jar test... mix small amounts together in a small jar
- Mix in the pesticides together in the order suggested by the label(s)
- Check compatibility charts

When mixing different categories of pesticides, you must follow all the safety requirements of the highest category pesticide. For example, if you are mixing Category I and III pesticides, you must treat the entire process using Category I restrictions.

FACTORS THAT AFFECT PESTICIDE PERFORMANCE

Even with perfect pesticide applications, there are a number of factors or circumstances that influence how well a pesticide will work. These factors include:

• The life stage of the pest; for example, many insecticides are not effective when the insect is in the pupal life stage.

- How long will the pesticide last? **Persistent pesticides** last a long time in the environment. The **half life** of a chemical is the amount of time it takes for 50% of the chemical to break down into other products.
- Climatic conditions, like heat, cold, rain, humidity, or inversion, can have an effect on how well pesticides work.
- Did you hit the target with the pesticide?
- The quality of the mix water; for example, dirty mix water often reduces herbicide performance.
- Use clean mix or spray tank, free of contamination.

COMMON PESTICIDES

Organophosphates: central nervous system poisons.

- Diazinon
- Dursban or Lorsban
- Malathion
- Parathion

, Carbamates: central nervous system poisons.

- Sevin
- Lannate

Organization (Chlorinated Hydrocarbons): Disrupt function of the nervous system. These pesticides are persistent in the environment, and are readily stored in animal body fat.

- Chlordane
- DDT
- Dicofol (Kelthane)

Herbicides: Kill weeds.

- Round-Up
- 2,4-D
- Devrinol
- Surflan
- Ronstar G

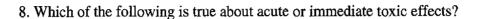
REVIEW QUESTIONS

1. Wł	nich of the following are pesticides?
_	Chlorine used for swimming pools and water treatment Insecticides Herbicides All of the above
2. The	e toxicity of a pesticide is?
a. b. c. d)	A characteristic of the chemical The capacity of the chemical to cause injury Often measured by its LD ₅₀ All of the above
3. Wh	nich of the following statements is true in regard to LD ₅₀ values.
a.) b. c. d.	When LD ₅₀ values are large, this means the product is more toxic. LD ₅₀ means that it takes only 50% of the dose to kill 50% of the test population. LD ₅₀ values are a guide to long-term or chronic health effects to pesticides.
4. Wb	ich of the following statements is true about
a. b. c. d	Chronic health can show up years after exposure. Some chronic health effects show up soon after exposure to the pesticide. Both a and c.
5. W h	ich of the following signal words would you find on a category 2 pesticide?
a. b. c. d.)	"KEEP OUT OF REACH OF CHILDREN" (W Every pest Label) "CAUTION" "WARNING" Both a and c
	ich of the following signal words would you find on a pesticide label if the LD ₅₀ s 700 mg/kg, but it was extremely corrosive to the eyes.
a. b. c. d.	"WARNING" "CAUTION" "DANGER" "POISON"

- 7. Which of the following words would you find on a category 1 pesticide?
 - a. "DANGER"
 - b. "WARNING"



d) Both a and c



- a. Most of the time, effects show up many years later
- b. Usually a short term effect
- C) Usually the toxic effect from one dose shows up within 24 hours
- d. Both b and c
- 9. What must you have before you can purchase a restricted material?



Des & D.

- a. A permit from the California Department of Pesticide Regulation
- (b) A restricted material permit from the Commissioner
- c. A restricted material permit from the Commissioner, and be a certified applicator
- d. You do not need a permit if you are safe and have not been in trouble
- 10. The term "Pesticide Labeling" refers to what?



- c. The label and all other claims made by the manufacture
- d.) Both a and b
- 11. What information is found in the label?



- b. Describes the hazards associated with that pesticide
- c. Describes how to treat the spray mix solution
- d. How to use the pesticide
- 12. What information is in the "Reentry Statement" on the pesticide label?
 - a. How much time must pass before a crop can be harvested
 - b. What to do if someone gets sick after entering a pesticide treated site
 - c. How soon posting must be in place
 - d The restriction on entering a treated site, the amount of time after a pesticide application before reentry into the site is allowed

- a. The first aid that must be given to a person exposed to the pesticide
 b. The types of safety equipment to use
 c. tatement associated with the use of the pesticide
 d. The amount of time that must pass after a pesticide application before people can
- 14. What is the active material in a pesticide formulation?
 - a. The total formulation of the pesticide
 - b. All of the adjuvants added together

enter the treated site

- c. The solvents used to make up the carrier
- d.) The chemical that has the pesticidal effect
- 15. What are ingredients in a pesticide?
 - a. Solvents
 - b. Surfactants
 - c. Spreaders and stickers
 - (d) All of the above
- 16. Which formulation is usually the
- s a. Wettable powders
 - b. Francisco Constitution
 - c. Dry Flowables
 - d. Dust materials
- 17. Which of the following are reasons to use adjuvants?
 - a. To help pesticides mix together better
 - b. Reduce drift
 - c. Buffering agents
 - d.) All of the above
- 18. When pesticides do not mix well together or separate quickly after being mixed what is this condition called?
 - a. Compatibility
 - Incompatibility
 - c. A mess
 - d. None of the above

1

- 19. Although two pesticides mix well together, which of the following problems may occur?
 - a. The mixture causes damage to treated surfaces.
 - b. The mixture is less effective than either of the components alone.
 - c. The mixture is more toxic than either of the components alone.
 - (d) All of the above.
- 20. Which of the following factors could influence a pesticide's effectiveness?
 - a. The life stage of the target organism
 - b. Weather conditions
 - c. The water used to mix the pesticide
 - d All of the above

Answers:

- 1. d 6. c 11. a 16. b
- 2. d 7. d 12. d 17. d
- 3. a 8. c 13. c 18. b
- 4. d 9. b 14. d 19. d
- 5. d 10. d 15. d 20. d

LAWS AND REGULATIONS

This section will provide a general overview of the laws and regulations as they pertain to the use of pesticides in California. This is the largest section of this study guide and has the highest importance.

THE REGULATORY SYSTEM

Before we can look at how laws and regulations are developed and implemented in California we must first look at the federal level. The U.S. Environmental Protection Agency (EPA) is responsible for all pesticide registration and use under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). In California, the Department of Pesticide Regulation (DPR) implements federal and state laws and regulations, and at the local level the county Agricultural Commissioner (Commissioner) implements the federal, state, and local laws and regulations.



LAWS AND REGULATIONS...WHAT'S THE DIFFERENCE?

Laws are passed by the legislature and signed by the governor. Regulations are adopted by departments (like DPR) after a hearing by the Office of Administrative Law, and filed with the Secretary of State. Laws give authority to state agencies (like DPR) to write regulations. Regulations make the laws specific. Anyone breaking pesticide laws or regulations is guilty of a misdemeanor and is subject to warnings, penalties, and/or jail.

The words "shall" and "may" are used extensively in laws and regulations. Their meanings are quite different. "Shall" is mandatory and "May" is permissive.

Shall and must mean mondatory

The PESTICIDE REGISTRATION PROCESS

When a pesticide is approved for use by either the US EPA or by DPR, the pesticide is said to be "registered". All pesticides that are registered by DPR are at the by the US EPA. In making pesticide registration decisions, the US EPA is required by law to take into account the economic, social, and environmental costs and benefits associated with the use of that pesticide.

Before a pesticide can be sold, used, or offered for sale in the pesticides, it must be Pesticide registration requires that all pesticides be properly labeled and be appropriate for the designated use under state laws and regulations.

WHAT ARE RESTRICTED-USE PESTICIDES?

Restricted-Use Pesticides. A pesticide is classified as "restricted use" if it is potentially more hazardous than other pesticides. Hazards may be based on:

- toxicity to people, including any special hazards to eyes or skin,
- environmental effects; or
- how the pesticide will be used

All federally restricted-use pesticides have a Restricted-Use Statement displayed on the pesticide label. California has established a list of restricted-use pesticides in addition to those pesticides that are designated by the US EPA as federally restricted-use pesticides. Any pesticides that are determined to be restricted by the US EPA are automatically designated as restricted by DPR. If a pesticide is only California restricted, the pesticide label will not include a Restricted Use Statement.

RESTRICTED MATERIALS PERMITS

A person must obtain a restricted materials permit from the local county agricultural commissioner before buying or using a restricted pesticide. Agricultural permits are issued to the property operator. Permits for non-agricultural settings can be used to the property operator of the pest control operator who will be making the application.

To qualify for this permit, a grower (or other private land owner) must first be certified as a private applicator by the commissioner. This is done by taking an exam offered by the commissioner. All other permit applicants must be certified commercial applicators (i.e. they must either be a QAL or QAC-holder).

The purpose of the permit process is to review the legality of the proposed use and to mitigate any adverse effects or hazards to the environment. Before the permit can be issued, the commissioner must:

- Determine if there are any adverse environmental impacts
- Determine if there are any feasible alternatives available
- · Mitigate any potential hazards

Federal and state restricted-use pesticides can be purchased from a licensed pesticide dealer. A pesticide dealer must have a copy of the grower's restricted materials permit before selling a federal or state restricted-use pesticide.

Notice-of-Intent. Before any use of a restricted material, the Commissioner must be given a Notice to determine if the NOI meets the conditions of the permit.

APPLICATOR RESPONSIBILITY

Any person that applies pesticides either for hire or for their own personal use must do the following:

- Use only pest control equipment that is in good repair and safe to operate.
- Perform all pest control in a careful and effective manner.
- Use only methods and equipment suitable to insure proper application of pesticides.
- Exercise reasonable precautions to avoid contamination of the environment.
- Be in possession of a copy of the registered labeling, available at each use site, that allows the manner in which the pesticide is being used.
- Measure concentrated pesticides only with devices that are accurately calibrated to the smallest unit in which the pesticide is being weighed or measured.
- Maintain a uniform mixture at all times in both application and service rigs.
- Thoroughly clean pest control equipment when necessary to prevent illness or damage to persons, plants, or animals from residues of pesticides previously used in the equipment.
- Avoid contamination of the water by equipping each piece of application
 equipment and service rigs that handles pesticides and draws water from an
 outside source with an air-gap separation or reduced pressure principle back-flow
 prevention device or double-check valve assembly that is acceptable to both water
 purveyor and the local health department.

- Prior to and while applying a pesticide, evaluate the equipment to be used, the
 weather conditions, the property to be treated, and surrounding properties to
 determine the likelihood of harm or damage.
- Not withstanding that substantial drift will be prevented, no pesticide application shall be made or continued when:
 - There is potential hazard to or contamination of the bodies or clothing of persons not involved in the application process.
 - There is possibility of damage to nontarget crops, animals, or other publication property.
 - There is a possibility of contamination of nontarget public or private property, including the creation of a health hazard, preventing normal use of such property.

Reporting accidents: each person engaged for hire in the business of pest control must report any vehicle accident, forced landing, or emergency or accidental release of pesticides involving vehicles, aircraft, or other equipment used to transport, mix or apply any pesticide, to the Commissioner as quickly as possible by telephone or radio. The report must include the location, the pesticide, and estimated cost of damage.



PROTECTING BEES

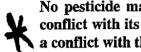
Special procedures must be followed when using certain pesticides near bee apiaries. These pesticides will have pesticide label warnings that indicate "this pesticide is toxic to bees."

The person in charge of the pesticide application must check with the commissioner to find out if any beekeeper has requested notice of pesticide applications that will be made to the person of the application must notify the person of the application with the following information:

- Time and place the application is to be made
- The crop and acreage to be treated and the method of application
- The name and dosage rate of the pesticide to be applied
- How the person performing pest control may be contacted by the beekeeper

The time period for notification may be increased or decreased by the Commissioner or by agreement of both the beekeeper and the person performing the pesticide application. Special bee protection requirements apply to the citrus growing areas of the San Joaquin Valley during citrus bloom. Beekeepers, pesticide dealers, agricultural pest control advisers, and pesticide users in this area must be aware of these requirements.

CONFLICT WITH LABELING



No pesticide may legally be used, stored, handled or recommended by anyone in conflict with its registered labeling. The following uses or recommendations are not a conflict with the labeling:

- A decrease in the rate (i.e. gals/acre)
- A decrease in the concentration in the tank
- Application less frequently than the label recommends
- Use to control a target pest not listed on the label, provided the application is isted on the label and the use of the product against an unnamed pest is not expressly prohibited.
- Employing a method of application not prohibited, provided other label directions are followed.
- Mixing with another pesticide or with a fertilizer, unless such mixture is prohibited.
- An increase in the concentration of the mixture applied, provided it corresponds with the current published recommendations of the University of California.

STORAGE, TRANSPORTATION AND DISPOSAL

The Commissioner may take possession of unattended pesticides or empty pesticide containers that present a hazard to people, animals, or the environment.

Each person who controls the use of property is responsible for all pesticide containers and equipment on that property. The person responsible for the property must either:

Provide a person to maintain control over the pesticide containers and equipment at all times. This means a person must be present in the vicinity at all times and maintain control over the containers and equipment to prevent contact by unauthorized persons. If pesticides are used adjacent to the road or in a populated area, the containers and equipment must be in the responsible person's sight at all times.

• Store the pesticide containers and equipment in a locked enclosure. In the case of liquid material packaged in a container larger than 55 gallons, the container does not have to be in a locked enclosure if the closure on the container is locked.

Pesticides must be stored in accordance with the storage recommendations stated in the labeling, if any, and in accordance with the labeling on all other products (including non-pesticide products) held in the same storage area. Pesticide storage areas should be built to contain accidental spills and to prevent runoff. Also, herbicides should not be stored in the same area as insecticides, livestock feed, and human food and pesticides should not be stored in the same area as livestock feed and/or human food.

POSTING PESTICIDE STORAGE AREAS

When pesticides having the signal word "WARNING" or "DANGER" on the label are stored, a warning sign must be posted around the storage area visible from any direction of approach. The warning sign lettering must be of such size that it is readable from a distance of 25 feet. The warning sign must be repeated in a language other than English when it may reasonably be anticipated that persons who do not understand the English language will come to the pesticide storage area.

PESTICIDE CONTAINER LABELING REQUIREMENTS

Any container that holds or has held pesticides, when stored or transported, must carry the registrant's label except when the pesticide is in a service container. This includes any supplemental labeling, Section 18s or SLNS.

A service container is any container, other than the original labeled pesticide container, that is used to hold, store, or transport pesticides or use-dilutions of pesticides. Each service container must carry labeling that includes the following:

- Name and address of the person or firm responsible for such container
- The name of the pesticide
- The signal word from the original container

It is illegal to place or store a pesticide in any container type commonly used for food, drink, or any other common household container. This careless practice has resulted in deaths and serious injuries, especially to children.

DELIVERING AND TRANSPORTING PESTICIDES

Any person who delivers a container that holds or has held pesticides to a property must deliver them either to the person in charge of the property, to that person's agent, or to a pest control business licensee or the licensee's employee. If a responsible person is not at the property at the time of delivery, the containers can be left in a locked enclosure that is posted with an appropriate warning sign.

Pesticides must not be transported in the same compartment with people, food, or feed. Pesticide containers must be secured to vehicles during transportation in a manner that will prevent spills into the vehicle or off the vehicle. If the pesticide containers are made of paper, cardboard, or similar material, the containers must be covered to protect them from being exposed to moisture.

RINSING AND DISPOSING OF PESTICIDE CONTAINERS

Containers that have held less than 28 gallons of a liquid pesticite must be drained and triple-rinsed by the user at the time of use. Other rinse methods of at least equal effectiveness to the triple-rinse and drain procedure may be followed if approved by the Director. For example, the Director has approved a continuous jet rinse procedure involving the following steps:

- Invert the emptied container over a nozzle, located in the opening of a spray tank or nurse rig, which is capable of rinsing all inner surfaces of the container.
- Activate the rinse nozzle/nozzles
- Allow the container to drain into the tank
- The rinse must be continued until the rinse solution appears clear and a minimum of 1/2 of the container volume of rinse solution has been used. A minimum of 15 pounds pressure is required for proper rinsing. High pressures should be avoided as a precaution against misting, splashing, or other potentially hazardous effects to people at the rinse site.

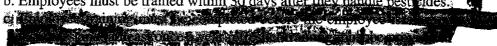
Disposing of Pesticides and Containers. Regulations allow rinsed containers to be recycled and certain large drums to be reconditioned. In either case, the procedures must be approved by the Director.

Disposal sites that accept pesticides and used pesticide containers must do so in accordance with requirements of the Department of Health Services, the State Water Resources Control Board and the Regional Water Quality Control Board having jurisdiction there. Before disposing of pesticides or used pesticide containers, consult with the local Agricultural Commissioner.



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- 12. When must employees that mix, load, apply (including flagger), store, transport, or otherwise handle pesticides for any use need to be trained?
 - a. Employees must be trained before handling pesticides.
 - b. Employees must be trained within 30 days after they handle pest sides.



- d. Employee training is only required for category 1 and 2 pesticides.
- 13. When working alone with pesticides that carry the signal word "DANGER," on the label how long can you work alone?
 - a. There are no restrictions on working alone



- 14. When must work clothing be provided for the employee?
 - a. For employees working with pesticides that carry the signal word "CAUTION"
 - b. For employees working with pesticides that carry the signal word
 - c. For employees working with pesticides that carry the signal word C C
- 15. When must eye protection be provided and used?
 - a. Flagging, except when flagging in an enclosed cab
 - b. While adjusting, cleaning, repairing, mixing, or loading application equipment that
 - contains pesticides

- c. Conducting ground application activities using hand-held, vehicle mounted, or towed equipment
- 16. During what weather conditions can full-body chemical-resistant protective clothing that covers the torso, head, arms, hands, legs, and feet not be worn?
 - a. There are no restrictions on when you can not wear full-body chemical-resistant protective clothing
 - b. When day time temperatures exceeds 80°F
 - c. When nighttime temperatures exceeds 85°F

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- 17. When is a closed loading-mixing employee?
 - a. When mixing or loading a liquid pesticide with the signal word "CAUTION"
 - b. When mixing or loading a liquid pesticide with the signal word "WARNING"

 - d. Both b and c
- 18. The possible possing is? to have on the front of the telephone, in case of a pesticide poisoning is?
 - a. 911
 - b. The sheriff and highway patrol

 - d. The closest emergency medical care center
- 19. When applying a mixture of two or more organophosphates pesticides together the reentry interval is determined by?
 - a. Adding the two reentry intervals together



- c. Just use the longest reentry interval
- d. Using the shortest reentry interval
- 20. When warning signs must be posted, which of the following is true?
 - a. The warning signs must be posted before the application.
 - b. Warning signs must not be posted unless pesticide application is scheduled within the next 24 hours.
 - c. The signs must be removed by the employer within 3 days after the end of the reentry interval.

Answers:

- 1. c 6. d 11. c 16. d
- 2. a 7. b 12. c 17. c
- 3. d 8. c 13. d 18. d
- 4.b 9.c 14.d 19.b
- 5. b 10. c 15. d 20. d

WORKER PROTECTION

Worker safety is one of the most important subjects covered by the QAC and QAL exams. The topic includes regulations about the protective clothing and procedures required for pesticide applicators and mixer/loaders. It also includes safety regulations for those that repair or perform maintenance on pesticide application equipment and agricultural field workers.

APPLICATOR AND MIXER/ LOADER SAFETY

Some pesticides are highly toxic and mixing or applying them requires extreme care.

Mixing and loading activities involve handling concentrated materials with a higher potential to spill or splash pesticides onto the skin or clothing of mixers and/or loaders. This is why mixing and loading requires a higher level of protective clothing and engineering controls.

The pesticide label is the key information source for worker information. Applicators must read and understand the label before handling any pesticide.

EMPLOYEE TRAINING

The employer must have a written training program for employees who handle pesticides. Pesticide safety training is required before employees are allowed to handle pesticides, and at least once a year thereafter. The employer must provide training so that each employee who handles any pesticide understands the following for each pesticide to be used:

- 1) The format and meaning of pesticide label warning information about human health hazards.
- 2) Pesticide use hazards, including both acute (short term) and chronic (long term) hazards. This information can be found on pesticide labels, Material Safety Data Sheets (MSDS) and DPR Pesticide Safety Information Series (PSIS) leaflets.
- 3) The routes by which pesticides enter the body.
- 4) Signs and symptoms of overexposure
- 5) Emergency first aid for overexposure
- 6) How to obtain emergency medical care

- 7) Routine and emergency decontamination procedures, including spill clean up and the need to shower with soap and warm water after the exposure period.
- 8) The need for, limitations, use and sanitation of personal protective equipment
- 9) Prevention, recognition and first aid for heat-related illness
- 10) The safety procedures to be followed, engineering controls to be used, and the clothing and protective equipment to be used while using the pesticide.
- Environmental concerns such as drift, runoff and wildlife hazards
 - 12) Warnings about not taking pesticide containers home
 - 13) The appropriate DPR regulations about pesticide safety, material safety data sheets and DPR's Pesticide Safety Information Series.
 - 14) The purposes and requirements of medical supervision, if toxicity category 1 or 2 organophosphate or carbamate pesticides are handled for the production of an agricultural commodity.
 - 15) The location of the written Hazard Communication Program (DPR PSIS A-8 or DPR PSIS N-8), pesticide use records, other appropriate PSIS leaflets and material safety data sheets.
 - 16) The employee's rights, including:
 - To receive information about pesticides to which they may be exposed
 - For the employee's physician or employee representative to receive information about pesticides to which the employee may be exposed
 - Against discharge or other discrimination due to their exercise of these rights

Employee Training Records: the employer must record the date and extent of training given to the employee and the job to be assigned. The training records must be verified by the employee's, trainer's, and employer's signatures and be kept by the employer for two years at the employee's permanent assigned work location. These records must be available for review by the Director or the Commissioner.

Who Can Provide Training? When the employees being training apply pesticides that are used in <u>production agriculture</u>, the trainers must be one of the following:

- A DPR certified applicator
- a properly licensed biologist from the county ag commissioners office
- a University of CA farm advisor

- a DPR licensed pest control advisor
- a CA Registered professional forester
- a person who has completed a DPR-approved instructor training program
- a person otherwise approved by DPR

HAZARD COMMUNICATION

Employers are also required to provide employees with hazard communication information about the pesticides they use. Specifically, the employer is required to provide the following:

- A copy of a completed the DPR Pesticide Information Series leaflet Hazard
 Communication Information for Employees Handling Pesticides in Agricultural
 Settings (PSIS A-8) or Hazard Communication Information for Employees
 Handling Pesticides in Non-crop Settings (N-8). This leaflet must be displayed at
 a central location in the workplace.
- Pesticide use records for pesticides that have been handled by employees.
- Copies of other appropriate DPR Pesticide Safety Information Series leaflets
- Copies of material safety data sheets (MSDSs) for each pesticide that employees handle.

It's the employer's responsibility to inform employees about the location of these records and the employees' right to view them.

POSTING APPLICATION SPECIFIC INFORMATION

An employer <u>involved in agricultural production</u> must also post information about treated fields* that are near areas (within ¼ mile) where employees are working. The employer must post the following:

- the identification of the treater area
- the time and date of the pesticide application
- the restricted entry interval; and
- the pesticide name, the US EPA Registration number and active ingredients.

*IMPORTANT DEFINTION: A field is legally considered to be "treated" for 30 days after the pesticide application + any applicable re-entry period. For example, if the pesticide beel requires that workers not enter the treated field for 3 days after treatment, that field is considered a "treated field" for 33 days (30 days + the 3 day re-entry interval).

EMERGENCY MEDICAL CARE



Emergency medical care must be provided to all employees that handle pesticides. The employer must arrange in advance for emergency medical care. The employer must post, at the work site or in the application vehicle, the name, address, and telephone number of the medical facility (clinic or hospital emergency room).

If an employee is suspected of being poisoned or has poisoning symptoms, the employer must make sure the employee is taken immediately to the closest emergency medical care facility or physician. It is very important that anyone who may be poisoned or has poisoning symptoms not drive themselves to the emergency medical care facility or physician. Bring a copy of the pesticide label to the emergency medial care facility. If that is not possible, bring the name of the pesticide to the emergency medical care facility or physician.

AGE REQUIREMENTS

A person (employee or non-employee) under the age of 18 years of age cannot mix or load a pesticide when labeling or regulation requires the use of any of the following:

- Air-supplied respiratory protection
- Closed-system mixing equipment
- Full-body chemical resistant clothing

RESTRICTIONS ON WORKING ALONE

When an employee mixes, loads, or applies a pesticide with the signal word "DANGER" on the label (to produce an agricultural commodity) the following restrictions concerning working alone apply:

- Daylight operations Working alone is permitted only when supervision is
 provided at least every two hours by a responsible adult; radio or telephone
 contact at least every two hours may be substituted for personal supervision.
- Nighttime operations Working alone may be permitted only when personal, radio, or telephone contact is made at least every hour by a responsible adult
- A pilot, loader and/or flagger team may be considered as working together; when two ground applicators are working in the same field and they can see each other (or each other's lights at night), no additional person is necessary.

SAFE EQUIPMENT

Equipment used for mixing and applying pesticides must be kept in good repair and be inspected daily. Equipment with any safety defects must be repaired or altered before further use.

Hatches, Doors and Hoses. All openings on tanks must be leak-proof. Any flexible hose under pressure carrying a liquid pesticide labeled with the signal word "DANGER" or "WARNING" must not pass unshielded through the cockpit of an airplane or helicopter.

Shutoff Devices. A shutoff device must be installed on the exit end of all hoses carrying a liquid pesticide from mixing tanks when the signal word "DANGER" or "WARNING" is on the pesticide label. This device must be adequate to prevent splashes onto employees during loading and when the filling operation is stopped and the filler hose is removed from the inlet of the tank. A reverse action pump or similar system that will empty the hose and eliminate dripping of liquid pesticide when the filling operation is stopped may be used as an alternative.

Adequate Lighting. When working at night, the mixing and loading operation area must have adequate lighting, which allows an employee to read the pesticide label and work in a safe manner.

Overflow Prevention. Each tank with a capacity of more than 49 gallons, which is used to hold pesticides or pesticide mixtures having the signal word "DANGER" or "WARNING" on the label must:

- Have a properly functioning means to externally indicate the internal liquid level
- Have a tank or filler nozzle with a device that automatically stops the filling operation before the pesticide spills over the top

Equipment Maintenance. People who own or operate pesticide mixing, loading, or application equipment must inform anyone who may be involved in the cleaning, servicing, and repair of such equipment of the hazards from pesticide exposure during operation and the methods of protecting themselves against injury. Employees who clean, service or repair such equipment must be provided with necessary protective equipment and/or clothing. They must be instructed and supervised in maintenance operations to reduce hazards to a minimum.

Closed Mixing and Loading Systems. Employers must provide closed systems* for employees that mix or load liquid pesticides with the signal word "DANGER" on the label.

The system design and

construction must meet the Director's closed system criteria. Closed systems are required only when the pesticide is applied to an agricultural commodity.

Closed system requirements do not apply to employees who handle a total of one gallon or less of pesticides with the signal word "DANGER" on the label per day (exclusively in the original containers of one gallon or less). Regulatory personnel collecting samples of pesticides according to official procedures also are exempt from this requirement.

* IMPORTANT DEFINITION: a closed system is a mechanized procedure for removing a liquid pesticide from its original container, rinsing the emptied container and transferring the pesticide and the container rinsate to the spray tank. A closed system reduces mixer/loader pesticide exposure by eliminating hand pouring.

CHANGE AREAS

For any employee who regularly handles* a pesticide with the signal word "DANGER" or "WARNING" and for employees that handle any pesticide used for the production of an agricultural commodity, the employer must provide a place to wash and change clothes at the location where the employee completes the workday. Clean towels, soap, and adequate water must be available for thorough washing. The employer must instruct the employee to thoroughly wash with warm water and soap. The employer must provide a clean, pesticide-free place where employees may store personal clothing while handling pesticides.

*IMPORTANT DEFINITION: "The 6 days don't have to be consecutive. Any part of a day would be considered 1 day. For example, if you spend one minute mixing up a small amount of a pesticide, that counts as 1 day in your 6 days towards "regularly handling".

HANDLER DECONTAMINATION FACILTIES

Clean water, soap, and towels for routine washing of hands and face, emergency washing of the entire body and for emergency eye flushing must be readily available for employees at the work site where they mix or load any pesticide with the signal word "DANGER" or "WARNING" on the label.

An extra change of coveralls must be available at the decontamination site.

At least one pint of water must be immediately available for emergency eye flushing if the pesticide label requires eye protection and the pesticide is being used for the production of an agricultural commodity.

This water must be stored separately from that use for mixing with a pesticide except when the tank holding the water for mixing with the pesticide is equipped with an appropriate break-valve to prevent backflow of a pesticide into the water.

If the pesticide is being used to produce an agricultural commodity, the decontamination site must be at the mixing and loading site and within 0.25 miles for all other handlers (i.e. applicators...except for pilots).

If the pesticides being handled are not for agricultural production and have the Danger or Warning signal words, the decontamination site must be within 100 feet of the mixing and loading site.

MEDICAL SUPERVISION

These pesticides reduce the amount of a blood stream enzyme called cholinesterase. These are either organophosphate or n-methyl carbamate (or just "carbamate) insecticides. A blood test can tell if humans have been exposed to these chemicals. An overexposure would result in blood test results with low cholinesterase levels. The blood tests measure both plasma and red blood cell cholinesterase levels.

Employee Exposure Records: are required for employees who handle organophosphate or carbamate pesticides with the signal word "DANGER" or "WARNING" when the pesticides are used for agricultural production. These records must have the name of the employee, name of pesticide, and the date handled. The employer must keep these records for three years.

Medical Supervision Agreements: Medical monitoring is required for employees that <u>regularly</u> handle organophosphate or carbamate pesticides with the signal word "DANGER" or "WARNING" when used for the production of an agricultural commodity. Employers must have written medical supervision agreements with physicians. Copies of these agreements must be given to county agricultural commissioners before employees can regularly handle these pesticides.

Blood Tests: When required, employee baseline red cell and plasma cholinesterase determinations must be verified every two years. New employees are required to have three red cell and plasma cholinesterase tests at 30-day intervals (first three periods of regular handling) before a medical supervisor may set the testing intervals. If the medical supervisor has not made a written recommendation for continued periodic monitoring, the testing interval shall be 60 days or every second period of regular handling.

What if an Employee's Cholinesterase Level Drops? If blood tests reveal that an employee's cholinesterase level has dropped below 80% of the baseline level, the employer must investigate the work practices of that employee in order to determine what caused the pesticide overexposure.

If the plasma level drops below 60% or the red blood cell level drops below 70%, the employee must not be allowed to handle cholinesterase-inhibiting pesticides until both levels return to within 80% of baseline.

Medical Records: must be maintained by the employer for three years and be available for inspection by the employee, Director, Commissioner, County Health Department, or State Department of Health.

PESTICIDE EXPOSURE

Pesticide Exposure occurs when pesticides come in contact with a person's body (either inside or outside). Some pesticides are highly toxic; exposure to even small amounts can cause illness or injury. Other pesticides are less toxic and take larger amounts to cause illness or injury.

Hazard is the risk of illness or injury from pesticide exposure. Hazard level depends on both the pesticide's toxicity (how poisonous it is) and the amount of exposure a person has to the pesticide. Look at the following equation:



With the hazard equation in mind, let's look at the following combinations:

- Using a high toxicity pesticide in a manner that presents a high exposure to that
 pesticide would create a high hazard, or a high chance of a pesticide illness or
 injury.
- Using a low toxicity pesticide in a manner that presents a low exposure to that
 pesticide, would create a very low hazard or very low chance of a pesticide illness
 or injury.
- Using a high toxicity pesticide in a manner that presents a low exposure to that
 pesticide because of safety equipment and engineering controls, the hazard would
 be reduced, and the chance of pesticide illness or injury would be greatly reduced.

The main concept is that we can reduce the hazard of any pesticide by handling it in a correct and safe manner, using proper safety equipment and engineering controls. Many times we are unable to use pesticides with low toxicity, but we can reduce the amount of pesticide exposure. With this in mind, let's take one more look at ways pesticide exposure can be reduced:



• Engineering controls include enclosed cabs and closed loading systems. These devices create a barrier between you and the pesticide, reducing the hazard.

- Safety equipment provides a similar barrier between you and the pesticide. It keeps the pesticide from contacting your skin or clothing and prevents you from breathing, and/or swallowing the pesticide.
- Hygiene practices remove pesticides that have gotten past the engineering controls and safety equipment. It is very important for people working around pesticides or working around crops that have been treated with pesticides to thoroughly clean themselves and change into clean clothing daily.

Here are some specific ways that pesticide hazards can be reduced by reducing exposure:

- Follow the pesticide label, and laws and regulations.
- Work safe. If your clothing or skin gets an exposure, wash it off immediately
- Use the proper safety equipment and use engineering controls
- Reduce pesticide drift
- Use less toxic pesticides
- Keep people out of treated areas if there is any reentry interval in effect
- Get immediate medical attention if anyone shows poisoning symptoms,
- Wash after handling pesticides.
- Wash before eating, drinking or smoking.

ROUTES OF EXPOSURE

Pesticides contact and enter the body four ways:

- Dermal Exposure
- Oral Exposure
- Inhalation Exposure
- Ocular Exposure

Dermal exposure is when pesticides contact the skin. About 90% of all pesticide exposure is dermal. Dermal exposure is caused by:

- Not washing hands after handling pesticides.
- Splashing or spraying pesticides on unprotected skin or eyes.
- Wearing pesticide-contaminated clothing.
- Wearing inadequate personal protective equipment while handling pesticides.
- Touching, rubbing, or handling pesticide-treated surfaces, or foliage.

Oral exposure is when pesticides are swallowed. Oral pesticide exposure is caused by:

- Not washing hands before eating, drinking, or smoking.
- Splashing pesticide into the mouth through carelessness or accident.
- Eating produce with high pesticide residues.

*

Inhalation exposure is when pesticides are inhaled. Inhalation exposure is caused by:

- Prolonged contact with pesticides in closed or poorly ventilated spaces.
- Breathing vapors, dust, or mist while handling pesticides without appropriate protective equipment.
- Using a respirator that fits poorly, is old, or has an inadequate filter, cartridge, or canister.

Ocular exposure is when pesticides come in contact with the eyes. It's caused by:

- Splashing or spraying pesticides in eyes.
- Mixing or applying pesticides without eye protection.
- Rubbing eyes or forehead with contaminated gloves or hands.
- Pouring liquid, dust, granule, or powder formulations without eye protection.

COVERALLS

At the start of each work day the employer must provide clean coveralls for each employee who handles a pesticide that has the signal word "DANGER" or "WARNING". At least one extra change of coveralls must be provided and available at the mixing and loading site when any of these pesticides are used.

Employees are required to remove their coveralls at the end of each work day; this clothing must be thoroughly washed before being worn again. Potentially contaminated coveralls cannot be taken home by the employee. However, if the employee does not return to the employer's headquarters at the end of the work day, the employee can remove and store coveralls in a sealable container outside of their own living quarters for later return to the employer. The employer must provide for the cleaning of coveralls and must inform the laundry that they will receive pesticide-contaminated clothing requiring separate laundering.

PERSONAL PROTECTIVE EQUIPMENT (PPE)

The purpose of PPE is to reduce pesticide hazards by reducing pesticide exposure. Pesticide handlers are legally required to follow all PPE use instructions that appear on the pesticide label and in DPR regulations. The employer is responsible for providing the proper PPE and training on its use.

Eye Protection. If the pesticide labeling does not specify a particular type of eye protection, it may consist either of safety glasses that provide front, brow, and temple protection, goggles or face shield. A full face respirator will also meet these The employer must provide the employee with eye protection. In California, even if the pesticide label does not require the use of eye protection, it label and DPR regulation
follow the Stricklest and
Available must be worn when:

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- Mixing and loading pesticides When using a closed system, eye protection
 must be available at the work site and is required to be worn only when
 actually making or breaking connections, inserting or removing probes, and
 other times when integrity of the system is broken.
- Adjusting, cleaning, repairing, mixing, or loading application equipment that contains pesticides
- Conducting ground application activities using hand-held, vehicle-mounted, or towed equipment
- Flagging, except when the flagger is in an enclosed cab

In California, the only situations allowed by law in which eye protection is usually not necessary are:

- If pesticides are being injected or incorporated into the soil
- If pesticides are being applied through vehicle-mounted spray nozzles located below and behind the operator
- If the operator is working in an enclosed cab
- If the pesticides being applied are not in a liquid or gaseous form

Chemical Resistant Gloves protect the hands and forearms from pesticide exposure. Employers are required to provide gloves and require their use for all pesticides, except when the pesticide label specifies that gloves must not be worn. Gloves must be made of chemical resistant materials like rubber, or other synthetic materials like PVC and neoprene. Gloves should not be lined because linings can absorb pesticides that cannot be adequately washed out.

Chemical Resistant Headgear made from fabric can absorb pesticide residues and become heavily contaminated. If a hat is worn during application, it should be either water-resistant and wide-brimmed or made out of a waterproof material such as plastic; headbands and sweatbands must also be waterproof.

Chemical Resistant Footwear worn while handling, applying, or mixing pesticides must not be made of leather or fabric-type materials because they absorb pesticides and will be a future source of exposure. Footwear must be made of chemical resistant materials such as rubber, PVC, nitrile, neoprene, or butyl. The pant legs of the work clothing should be worn on the outside of the boots to keep materials from running down into the footwear (boots).

Chemical Resistant Aprons protect vulnerable parts of your body while mixing and loading pesticides. They should be made of durable waterproof material, and be long enough to cover your chest and reach below the tops of your boots.

Respiratory Protection: Cartridge respirators consist of a rubber face-piece that fits over the mouth and nose with replaceable clip-on filters, screw-on cartridges, and a one-way exhalation valve. When you breathe through a cartridge respirator, outside air is pulled through the filter first. The filter removes dust particles in the air. The air then passes through the cartridge where organic vapors are scrubbed out of the air, allowing only clean air inside the mask. When you exhale, air passes out of the mask via a one-way valve. For cartridge respirators to work properly, the equipment must be in proper working order and have:

- Clean filters. Filters should be changed when cartridges are changed. During use, air passages in the filters begin to clog up causing breathing to become more difficult, making the respirator more uncomfortable for the user. This makes the cartridge more efficient, because air passes through the cartridge slower, but makes the user want to discard the respirator (not a good idea).
- Clean cartridges. Under normal circumstances, replace the cartridges following
 pesticide product label instructions, equipment manufacturer's recommendations
 or, lacking factual information to the contrary, at the end of each daily work
 period
- Proper fit. The cartridge respirator depends on a mask-to-face seal. This cannot
 be done with beards and/or long sideburns. Regulations prevent pesticide
 applicators with beards and/or long sideburns from wearing cartridge respirators.
 If people with long side burns or beards are required to wear a respirator, they
 must use a powered air cartridge respirator.

Employees that use respirators must...

- **Be properly trained**... Employees must be trained initially and at least every year on the respiratory equipment they are required to use. Training must cover:
 - The need for the use of the respirator
 - Proper use
 - Sanitary care
 - Limitations of the respiratory equipment
 - How to properly fit and test respiratory equipment
- Receive a medical evaluation. High blood pressure, heart disease, lung disease and perforated eardrum are examples of conditions that may make using a respirator unsafe. Employers must make sure their employees receive medical evaluations before they are fit tested or use a respirator in the workplace.

g is the same as waterproof or impervious pants and coat or a rainsuit. The employer shall provide and require employees to wear full-body chemical-resistant protective clothing that covers the torso, head, arms, hands, legs and feet when labeling or regulations require it to be worn. When pesticides are mixed or loaded with a closed loading system or an enclosed cab is used, chemical-resistant protective clothing does not need to be worn. But, this clothing must be available at the work site.

pesticides that have labels that require chemical-resistant full-body protective clothing cannot be used.

FIRST AID

Pesticide poisoning symptoms can vary widely depending on the type of pesticide involved. The cholinesterase-inhibiting insecticides have the most severe symptoms. Overexposure to these pesticides may cause blurred vision, dizziness, heavy sweating, weakness, nausea, stomach pain, vomiting and diarrhea. More significant exposures may cause convulsions, unconsciousness, coma, and possible death.

Whenever there is an accident involving pesticides, immediate attention must be focused on the potential danger to people and/or the environment. There are several things that should take place before an accident occurs.

- Know what is on the label before using a pesticide...
 - Precautionary Statements on the label describe three hazards associated with that pesticide: hazards to people and domestic animals, environmental hazards, and physical and chemical hazards
 - Statement of Practical Treatment on the label describes what to do in the event someone is accidentally exposed to the pesticide. For example, information on emergency first aid and when to seek medical attention.
- Post Emergency medical care facility information: name, address and telephone number of the nearest medical facility.

There are four different types of exposure and each type of exposure has its own first aid procedures.

1. **Dermal Exposure** is the most common route of exposure. People who mix and load pesticides have the highest degree of exposure risk, can cause rashes, burns and poisoning by absorption of the pesticide into the skin. In the case of accidental dermal exposure do the following:

- Remove the victim from the contaminated area
- Restore breathing
- Prevent further exposure by:
 - removing contaminated clothing
 - · washing affected areas with soap and water
 - seek medical attention, bring the pesticide label with you.
- 2. Oral Exposure occurs when the pesticide gets in to the stomach by splashing into the mouth, eating, drinking, smoking, eating contaminated food, or from food containers used as pesticide storage containers. In the case of accidental oral pesticide exposure you should:
 - Dilute the pesticide by having the conscious victim drink liquids.
 - Induce vomiting, but only the label does not advise against it.
 - Seek medical attention, bring the pesticide label with you.
 - 3. **Respiratory Exposure** can be very serious because chemicals that are breathed in to the lungs can enter the blood stream rapidly. In the case of accidental respiratory exposure you should:
 - Protect yourself from exposure
 - Remove the victim from the contaminated area
 - Loosen victims clothing
 - Restore breathing
 - Treat for shock, keep victim calm, warm, and lying down
 - Seek medical attention, bringing pesticide label to the emergency medical care facility or physician.
 - 4. Ocular exposure occurs when pesticides come in contact with the eyes. In the case of accidental ocular exposure you should:
 - Wash the eyes with a gentle flow of clean water for at least 15 minutes.
 - Seek immediate medical care.
 - Cover eyes with clean, wet cloth while transporting victim.
 - Seek medical attention and bring the pesticide label to the emergency medical care facility or physician.

MINIMAL EXPOSURE PESTICIDES

Because of specific hazards that are not mitigated by instructions on their labels, pesticides with certain active ingredients are classified by DPR as minimal exposure pesticides. Employees who handle these pesticides must follow special requirements in addition to those requirements that appear on the pesticide label. A current list of these

pesticides can be found in the regulations on the DPR web site www.cdpr.ca.gov. At the present time, the following pesticides have been determined by DPR to be minimal exposure pesticides:

- the herbicide bromoxynil
- the fungicide folpet
- the insecticide oxydemeton-methyl; and
- the miticide propargite.

The additional safety requirements for these minimal exposure pesticides include:

- employer-provided change areas
- employer-provided decontamination facilities
- the use of work coveralls
- the use of full-body chemical-resistant protective clothing
- · the use of closed mixing systems; and
- the use of respiratory protective equipment.

FIELDWORKER SAFETY

The primary purpose of the fieldworker safety regulations is to protect field workers from pesticide residues in their workplaces. Employers must take specific precautionary measures before fieldworkers enter treated fields.

Fieldworker Training

Fieldworker supervisors must be knowledgeable in posting requirements, activities prohibited during a reentry interval, where to go for emergency medical care, and the usual symptoms of the crew's activities. This person can be a farm labor contractor, the crew boss, and in some cases, the grower.

Before employees enter a treated field they must receive pesticide safety training. Training must be given at least every 5 years and must cover the following subjects:

- 1. Routine decontamination and thorough washing after the exposure period.
- 2. Restricted-entry level (REI) posting, and the standard format of state and federal posting signs.
- 3. Where workers may encounter pesticides and their residues.
- 4. Routes of exposure; skin (dermal) mouth (oral) lungs (respiratory)and eyes (ocular).

- 5. Pesticide hazards; chronic, acute and delayed effects; and sensitization effects.
- 6. Common signs and symptoms of pesticide overexposure.
- 7. First aid, decontamination, eye flushing, and getting emergency medical attention.
- 8. Warnings about taking pesticides or pesticide containers home.
- 9. Hazard communication requirements.
- 10. Employee rights to information and protection against retaliatory action for exercising employee rights.

Hazard Communication

The employer, including a labor contractor, shall make accessible to employees at the worksite, a copy of a completed Written Hazard Communication Program for Employees Working in Fields (Pesticide Safety Information Series A-9).

The operator of the property shall maintain in a central location at the workplace accessible to employees, including the employees of labor contractors who enter a treated field, the following:

- Pesticide use records for pesticides that have been applied to the field within the last two years.
- A Material Safety Data Sheet (MSDS) for each pesticide listed in the pesticide use records.

Application Specific Information

The following information concerning pesticide information must be posted at a central location at the worksite:

- Identification of the treated area
- The time and date of the pesticide application
- The restricted-entry interval
- The product name(s), the US EPA registration number(s), and the names of the active ingredients of the pesticides.

The information must be displayed when employees work within 1/4 mile of a treated field, and it must remain displayed until the area no longer meets the definition of a treated field or employees are no longer on the establishment, whichever occurs first.

Emergency Medical Care

When employees are required to enter treated fields, the employer must:

- Arrange in advance for emergency medical care for all employees that enter fields treated with pesticides
- Locate a facility where emergency medical care is available for employees who will be working in pesticide-treated fields
- Make sure employees or their supervisors in the field have knowledge of the name and location of a doctor or medical facility where emergency medical care is available. If the identified facility is not accessible from the work location, the employees or their supervisor must have an optional plan to obtain emergency medical care
- Ensure the employee is immediately taken to the facility providing emergency medical care whenever pesticide poisoning is suspected

Decontamination Facilities

Whenever fieldworkers are working in a treated field, decontamination facilities must be within ¼ mile from the nearest point of vehicular access to the fieldworkers. Employers must provide adequate water, soap, and single-use towels for hand and face washing and eye flush. The water must be potable and a temperature that will not cause illness or injury to skin or eyes, or if it is swallowed. These facilities must not be in areas that are being treated or are under restricted-entry intervals.

Field Reentry after Pesticide Applications

A reentry interval (REI) is the time period after a crop has been treated when reentry restrictions are in place. REIs may be found on product labeling or in regulations. Their primary purpose is to reduce employee exposure to pesticide-treated foliage or soil.

label required was

Toxicology Consultants & Assessment Specialists, LLC

TCAS

6450 Pine Avenue, Sanibel, FL 33957 29 Fennell Street, Skaneateles, NY 13152 (239) 472-2436 [FL] (315) 685-2345 [NY] (800) 308-0080

E-mail: drsawyer@experttoxicologist.com & Website: experttoxicologist.com

Toxic Exposures · Environmental Testing · Risk Assessment · Forensic Toxicology · Causation Evaluation

Toxicological Assessment of Dewayne Johnson and Toxicological Risk Assessment of Glyphosate and Roundup® and Ranger PRO® Formulations

William R. Sawyer, Ph.D., D-ABFM Toxicologist

December 21, 2017

Prepared for

Michael J. Miller, Esq. Jeffrey A. Travers, Esq. Timothy Litzenburg, Esq.

The Miller Firm, LLC 108 Railroad Avenue Orange, VA 22960 Toxicological Assessment of Dewayne Johnson and Toxicological Risk Assessment for Glyphosate Formulations December 21, 2017
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Part E: Dose Calculations Relevant to Dewayne Johnson

Mr. Johnson used Ranger Pro® composed of 41% glyphosate and 8% surfactants which include tallowamine (POEA), polyethylene glycol (PEG), phosphate ester and dipropylene glycol. Additionally, he used Roundup® composed of 18% glyphosate.

As discussed in detail earlier in this report, Mr. Johnson mixed the Ranger Pro as per the pamphlet using 10 ounces of product to 5 gallons of water. However, he notes that the formulation could be stronger in certain applications. He has also testified spraying between 20-40 pesticide applications yearly (for 2-5 hours),²⁷⁴ but deposition testimony reports a higher application frequency for more than 2 years prior to his T-cell lymphoma diagnosis.

Mr. Johnson also details high level, severe (upper body soaking) acute exposures. Mr. Johnson testified that he experienced drift exposure "all the time." There was no way to control the drift even by spraying on calm days or changing out nozzles to increase droplet size. During spraying, Mr. Johnson used personal protective equipment including gloves, boots, a "sweatshirt-type hoodie," a permeable Tyvek suit, hat and goggles. (Although Mr. Johnson wore a Tyvek suit, it was apparently the fine cloth type as he explained that drift passed through it leaving him wet). Mr. Johnson testified that he was spraying sites at five different school locations at different times.

During Mr. Johnson's first high level, acute exposure, he testified that he was soaked with glyphosate when a hose broke off the 50 gallon pump unit and he attempted to access the unit to shut it off. "The hose came [dis-attached] from the back of the truck and it was just juice everywhere, flying out the back of the truck. So that's when I had to hop in because the switches are in the back. There's no safety switch there ... I reach in the back there and turn it off and that's when I got it on the back of my neck and the back of my head and everywhere and on my face." 275

²⁷⁴ Mr. Johnson testified, "..spraying sites at five different school locations at different times, usually would spray no more than 4-5 hours per day."

²⁷⁵ At 12:37, he stated. "Cause it got down to my neck and got down to about the tip of my shoulder. I was able to rinse a lot of that off. I don't know if I'm wiping it in or I'm taking it off. ..But I'm using what I had at the time."

Toxicological Assessment of Dewayne Johnson and Toxicological Risk Assessment for Glyphosate Formulations December 21, 2017
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Toxicological Conclusions

Toxicologists cannot assume a position of advocacy. A scientifically credible expert opinion is based solely on objective, reliable evidence. Additionally, analysis must be performed <u>without deviation</u> from the prescribed methodology. Weight of evidence must take all possible factors into account before reaching any conclusions. A strong attempt has been made to apply those principles throughout this assessment.

Based on the totality of evidence available at this time, it is my opinion to reasonable toxicological certainty that the recent IARC classification of glyphosate as a Level 2A carcinogen is appropriate. Additionally, it is my opinion to reasonable toxicological certainty that some formulations of glyphosate have greater potential for carcinogenic health risks then calculated above based on enhanced absorption by adjuvants used in the products. Glyphosate has been demonstrated to induce (but may not be limited to) lymphopoietic malignancies as supported by multiple, independent chronic dietary animal studies as well as the body of human epidemiological literature as assessed by IARC.

Mr. Dewayne Johnson was diagnosed with mycosis fungoides, an infrequently encountered, rare T-cell lymphoma, approximately 2.25 years following his frequent mixing and application of glyphosate/co-formulants for the Benicia Unified School District. His absorbed dose of glyphosate was within the range of that encountered within the generally accepted toxicological and epidemiological literature among hydraulic applicators. Mr. Johnson's medical history, family history, genetic predisposition, prior occupational chemical exposures or lifestyle risk factors do not reveal any known risk factors for lymphoma. Based on the documented and inherent properties of glyphosate to produce lymphoma in animal studies as well as the results of statistically significant human epidemiological studies, I am certain to reasonable toxicological certainty that Mr. Johnson's glyphosate exposures induced or significantly contributed to the onset of his T-cell lymphoma (mycosis fungoides).

William R. Sawyer, Ph.D., D-ABFM

will

Chief Toxicologist

1	SUPERIOR COURT OF THE STATE OF CALIFORNIA
2	FOR THE COUNTY OF SAN FRANCISCO
3	
	CASE NO.: CGC-16-550128
4	DEMANNE TOUNGON
_	DEWAYNE JOHNSON,
5	
_	Plaintiff,
6	VS.
7	MONSANTO COMPANY,
8	Defendant.
	/
9	
10	
11	* * * * CONFIDENTIAL * * * *
12	
	VIDEOTAPED DEPOSITION OF WILLIAM SAWYER, PH.D.
13	
14	
15	Monday, February 26, 2018
16	8:12 a.m 5:04 p.m.
17	
18	Sanibel, Florida
19	
20	
21	Stenographically Reported By:
	Tracie Thompson, RMR, CRR, CLR
22	Registered Merit Reporter
	Certified Realtime Reporter
23	Certified LiveNote Reporter
24	
25	Pages 1-264
	Page 1

1	MR. TRAVERS: Jeffrey Travers for the
2	Miller firm on behalf of plaintiff, DeWayne
3	Johnson.
4	WILLIAM SAWYER,
5	having been first duly sworn testified as follows:
6	MR. DHINDSA: We're designating this
7	deposition confidential.
8	DIRECT EXAMINATION
9	BY MR. DHINDSA:
10	Q Good morning, Dr. Sawyer.
11	A Good morning.
12	Q My name is Ron Dhindsa. This is the first
13	time we've met, right?
14	A Yes.
15	Q But this is not the first time you've
16	testified under oath, correct?
17	A Correct.
18	Q In fact, you've testified in hundreds of
19	depositions before; is that right?
20	A Yes.
21	Q And in the past 15 years, is it fair to say
22	the majority of those depositions have been on behalf
23	of plaintiffs suing for injuries?
24	A I can't speak on the past 15 years. I can
25	speak on the past three years, which is roughly about
	Page 6

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.
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.
	Page 49

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.
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,
	Page 50

1	right, and the determination about glyphosate?
2	A Yes.
3	Q Do you have any opinions about Proposition
4	65 that are not stated in your report?
5	A Only that the more potent, more sensitive
6	animal studies from Wood 2009 B would have been a
7	more appropriate animal model to use in the cancer
8	potency calculation.
9	Q Why do you say that?
L O	A Because the Wood 2009 B animal studies for
1	lymphoma provided a more sensitive analysis, the dose
L2	response period was monotonic and highly significant,
L 3	as opposed to the hemangiosarcoma study used in the
L 4	proposed NSRL.
L 5	Q Anything else?
L 6	A No.
L 7	Q You used the Wood 2009 B study on
L 8	lymphomas, right?
L 9	A Yes.
20	Q Do you have any opinions regarding the
21	hemangiosarcomas that are not in your expert report?
22	A No.
	Page 59

3	Q And I think you testified earlier you have
4	used Roundup as recently as a couple months ago; is
5	that right?
6	A That's true.
7	Q Have you or anyone you're aware of who's
8	used Roundup developed non-Hodgkin's lymphoma?
9	A Not that I know of.
10	Q You're not a genotoxicologist, are you?
11	A No, but I've reviewed hundreds, if not
12	thousands, of human toxicity studies over the years
13	and I've had training and experience with
14	genotoxicity as part of my everyday work.
15	Q Have you ever conducted any genotoxic
16	studies?
17	A No.
18	Q Have you ever designed any studies relating
19	to genotoxicity?
20	A No.
21	Q Have you ever served as a reviewer for any
22	studies relating to genotoxicity?
23	A No.
24	Q You're not a toxicologist who focuses his
25	studies on oxidative stress, right?
	Page 60

1	A No, it might have been earlier than that.
2	Hang on. I think it may have actually could have
3	been as early as 2004.
4	Q And did Mr. Marshall continue to use
5	glyphosate or stop using glyphosate after having that
6	conversation with you?
7	A As I recall, it was not a chemical that he
8	had much use for. I don't think it was something he
9	ever used.
10	Q Did he stop using it after you spoke with
11	him about your concern?
12	A I have no idea.
13	Q Now, you testified earlier about your own
14	personal use of Roundup in your home. Do you recall
15	that?
16	A Yes.
17	Q And I believe you mentioned that you wore
18	some personal protective equipment when using, when
19	mixing and applying Roundup; is that right?
20	A Yes.
	Page 86

Dawa 07
Page 87

Page 88

1	the nozzle so it's a fairly concentrated stream
2	without creating an aerosol, and I only use that
3	device when there is no wind at all.
4	Q Where did you get this wand device from?
5	A Actually, from my I believe from my
6	original sprayer that I then got another sprayer
7	years later, but it disbursed too much of an aerosol,
8	so I kept the original wand. In fact, I think I
9	drilled it out actually years ago, drilled out the
L O	brass end piece to give a slightly more heavier
1	concentrated stream.
L2	Q How long is that wand?
L 3	A It's a good 30 inches.
L 4	Q Do you use that wand sprayer for other
L 5	purposes, other than applying Roundup?
L 6	A No, never.
L 7	Q Did you say you also mix Roundup?
L 8	A Yes.
L 9	Q And do you wear the same personal
20	protective equipment that you've already described
21	for spraying when you mix Roundup?
22	A Yes.
23	Q Anything different?
24	A The only difference is I do have a black
25	neoprene glove that goes up a little further on my
	Page 89

1	10th, I think. So I've used it once in the past
2	five months for about 10 minutes.
3	Q A few times a year, maybe?
4	A Yeah.
9	Q You don't have mycosis fungoides, correct?
10	A That I know of.
11	Q What weeds do you spray with Roundup?
12	A That's a good question. I haven't really
13	inventoried that. If it pops up in my mulch, I zap
14	it, it's that simple. I actually pull most of my
15	weeds, but sometimes there are these creepy weeds
16	that are difficult to pull and they're very small.
17	But I hand-pull most of my weeds.
18	Q Dr. Sawyer, have you heard the term
19	"replication" in science?
20	A Yes.
21	Q Can we agree replication means if one
22	scientific investigator makes a set of observations,
23	another investigator can make a similar set of
24	observations when faced with similar conditions?
25	A Yes, but that's where the scientific method
	Page 91

Q And EPA has been studying glyphosate for 40
or so years while you just started, right?
MR. TRAVERS: Objection. Lacks foundation:
Vague.
THE WITNESS: I've been evaluating
glyphosate since I said earlier, since about
1994, '96, somewhere in that era.
BY MR. DHINDSA:
Q And since 1994 or 1996 in that era, until
you were retained by the plaintiffs in this case,
what type of analysis have you done on glyphosate in
that time period?
A Originally looked at the available
epidemiological studies back in the mid 1990s and I
got up to date with it.
Page 141

1	CERTIFICATE OF REPORTER
2	STATE OF FLORIDA
3	COUNTY OF LEE
4	I, TRACIE THOMPSON, Registered Merit Reporter,
5	do hereby certify that I was authorized to and
6	did stenographically report the foregoing
7	videotape deposition of WILLIAM SAWYER, PH.D.;
8	pages 1 through 265; that a review of the
9	transcript was requested; and that the
10	transcript is a true record of my stenographic
11	notes.
12	I FURTHER CERTIFY that I am not a relative,
13	employee, attorney, or counsel of any of the
14	parties, nor am I a relative or employee of any
15	of the parties' attorneys or counsel connected
16	with the action, nor am I financially
17	interested in the action.
18	Dated this 27th day of February, 2018.
19	
20	
21	
	Tracie Thompson
22	Notary Public
	State of Florida
23	My Commission No. GG 175178
24	Expires: March 1, 2022
25	
	Dago 264

1	SUPERIOR COURT OF THE STATE OF CALIFORNIA	
2	FOR THE COUNTY OF SAN FRANCISCO	
3	CASE NO.: CGC-16-550128	
4		
5	DEWAYNE JOHNSON,	
6	Plaintiff,	
7	VS.	
8	MONSANTO COMPANY,	
9	Defendant.	
10	/	
11		
12	CONFIDENTIAL	
13		
14	Continued Videotaped Deposition of WILLIAM	
15	SAWYER, PH.D., taken at 1451 Middle Gulf Drive,	
16	Sanibel, Florida, commencing at 8:09 a.m	
17	5:57 p.m., Tuesday, February 27, 2018, before	
18	Tracie Thompson, RMR, CRR, CLR, Registered	
19	Merit Reporter, Certified Realtime Reporter,	
20	Certified LiveNote Reporter.	
21		
22		
23		
24	JOB No. 2820385	
25	PAGES 265 - 557	
	D 065	
	Page 265	

Q So the Tyvek suit was being worn by	
Mr. Johnson to protect him from being exposed to	
glyphosate?	
A Yes.	
Q And so logically, do you agree with me that	
to get glyphosate into his body, it needed to get on	
his skin?	
A Yes.	
Q And to get on his skin, it first needed to	
get through the various clothing barriers Mr. Johnson	
was wearing, right?	
A Yes.	
Q And that included a Tyvek suit?	
A Correct.	
Q Did you read Mr. Johnson's transcript to	
determine how he applied the glyphosate?	
A Yes.	
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6	Q Now, did liquid glyphosate come out of the	
7	wand or an aerosol?	
8	A My earliest use of it produced an aerosol,	
9	which I then drilled the brass head with a wire drill	
10	in my workshop to a slightly larger diameter to	
11	produce a stronger, more rapid stream without forming	
12	an aerosol.	
13	Q When Mr. Johnson was applying	
14	glyphosate-formulated products, did liquid glyphosate	
15	come out of the wand or an aerosol?	
16	A Aerosol.	
17	Q How do you know that?	
18	A That's what his testimony reveals, and I	
19	read that to you right out of my report in his own	
20	words, regarding the flashback and drift of the	
21	aerosol.	
22	Q Did you examine the wand Mr. Johnson used?	
23	A No.	
24	Q Do you agree that most of Mr. Johnson's	
25	wand use came after his diagnosis with mycosis	
	Page 292	

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.	

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	

surfactant and the adjuvant Cosmo-Flux.

25

1	CERTIFICATE OF REPORTER	
2	STATE OF FLORIDA	
3	COUNTY OF LEE	
4	I, TRACIE THOMPSON, Registered Merit Reporter,	
5	do hereby certify that I was authorized to and	
6	did stenographically report the foregoing	
7	videotape deposition of WILLIAM SAWYER, PH.D.;	
8	pages 269 through 558; that a review of the	
9	transcript was requested; and that the	
10	transcript is a true record of my stenographic	
11	notes.	
12	I FURTHER CERTIFY that I am not a relative,	
13	employee, attorney, or counsel of any of the	
14	parties, nor am I a relative or employee of any	
15	of the parties' attorneys or counsel connected	
16	with the action, nor am I financially	
17	interested in the action.	
18	Dated this 28th day of February, 2018.	
19		
20		
21	Tracie Thompson	
22	Notary Public	
23	State of Florida	
24	My Commission No. GG 175178	
25	Expires: March 1, 2022	
	Page 557	

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

IN RE: ROUNDUP PRODUCTS	MDL No. 2741
LIABILITY LITIGATION	Case No. 16-md-02741-VC
This document relates to: ALL ACTIONS	

EXPERT REPORT OF ALFRED I. NEUGUT, MD, PHD

IN SUPPORT OF GENERAL CAUSATION ON BEHALF OF PLAINTIFFS

I have been asked to review the scientific literature on glyphosate and glyphosate-based formulations and to provide an opinion to a reasonable degree of medical and scientific certainty as to whether glyphosate and glyphosate-based formulations can cause non-Hodgkin lymphoma.

This review took as its takeoff the IARC report of 2015, and reviewed the studies and materials cited in that report. Further literature searches were conducted following up references in the key publications cited in the IARC report and a search conducted for any publications published subsequent to the IARC report. See References Section. We also reviewed the EPA (2016) report, the European Food Safety Authority (2015) report and the commentary by Portier (2015). In addition, I reviewed the transcripts of deposition of Aaron Blair of NIEHS, Donna Farmer of Monsanto and John Acquavella of Monsanto. With the exception of the deposition transcripts this would be the general approach utilized if one were doing a literature review for a scientific publication. More details are given in the text.

My assistant, Ayana K. April Sanders, MPH, a doctoral student in the Department of Epidemiology at Columbia University's Mailman School of Public Health, assisted with the tasks described above, compilation of the tables, and some of the writing. I reviewed all of the studies, and all opinions, analyses and conclusions are mine and mine alone.

II. Cancer Epidemiology

Epidemiology is the study of disease in populations, including its distribution, determinants, natural history, and survival. Rather than the individual patient, its perspective is that of public health. The traditional focus and goal of cancer epidemiology has been the determination of the incidence and mortality rates of cancer in different populations and subgroups, as well as the identification of risk factors for the purpose of disease prevention and control through primary prevention and screening interventions.

Much of epidemiology involves the assessment of cancer risk. A person can be at increased risk of cancer because of extrinsic or intrinsic factors, or a mix thereof.

- Extrinsic influences are factors outside of the individual's own body, such as environmental pollutants, cultural/lifestyle habits, medication use, infectious factors, and diet.
 - Intrinsic influences are factors unique to each person, such as genetics.

From an epidemiologic perspective, an etiologic agent or risk factor is anything that increases the probability that an individual will develop the disease. These risk factors can include demographic characteristics (e.g., increasing age or race/ethnicity) or lifestyle and behavioral factors, such as smoking. They also include endogenous factors, such as genetic mutations that have been identified as predisposing a person for a disease, such as a deleterious BRCA1 or BRCA2 mutation. Most cancers undoubtedly arise from a combination of genetic and exogenous factors that interact to define certain demographic patterns.

III. Cancer characteristics

My report focuses on characteristics which are specific or idiosyncratic or more relevant to cancer as opposed to other areas of epidemiology (infectious disease, cardiovascular, psychiatric, etc).

investigators would have had to not only collect information on exposure to glyphosate, but also the time period of the initial exposure. Determining the latency period of the outcome is important in recognizing whether there is a meaningful increased risk in disease in a population because we can use that knowledge to rule out other causes of the disease.

(3) Elevated risk of NHL in control group: In comparison to the cases, it is expected that the control group used in the analysis for "ever/never" exposure to glyphosate would have an elevate risk for NHL. Evidence for this determination includes the following: A) Farmers who were licensed to use restricted-use pesticides comprise 91% of the controls in the De Roos et al., 2005 study. Several studies have demonstrated a significant increased risk of NHL in farmers (Morton et al., 2014; Orsi et al., 2009). B.) Factors considered a risk for increased likelihood of NHL in farmers was tested in the Hardell et al. (L. Hardell, Eriksson, & Nordstrom, 2002) study that ultimately found that the exposure to "all herbicides" is a risk factor for NHL, OR=1.75, 95% CI: 1,26-2.41. Theoretically, if farmers had not adopted glyphosate as an herbicide they were likely to use other herbicides and hence have an increased risk of NHL. C) Finally, and most specifically, the majority of the control group (53.3%) in De Roos et al. (2005) was exposed to 2,4-D, an herbicide with carcinogenic potential. The meta-analysis conducted by Schinasi and Leon (2014) indicated a NHL meta-risk of 1.40 (95% CI: 1.0-1.9) for 2,4-D exposure. IARC recently classified 2, 4-D as possibly carcinogenic to humans (category 2b). Therefore, the effect estimate reported by De Roos et al. (2005) would be an underestimate of the NHL risk in the "ever/never" glyphosate exposure analysis.

(4) Non-differential Exposure Misclassification

Intensity of exposure to glyphosate was collected only at enrollment from 1993 – 1997. Yet, with the movement of agriculture to genetically engineered crops in 1996, participants already using glyphosate would have a dramatic increase in their intensity of exposure. By not collecting follow-up data on exposure status the analysis of exposure to glyphosate and association with NHL would be underestimated.

b. Case-control Studies (See Table 1)

Cantor et al. (1992) conducted a case-control study of incident non-Hodgkin lymphoma (NHL) in 622 white men compared to 1245 population-based controls in Iowa and Minnesota (Cantor et al., 1992). The study measured the risk of NHL associated with farming occupation and specific agricultural exposures. Men who ever farmed had a relative increased risk of NHL than non-farmers (OR=1.2, 95% CI: 1.0-1.5) independent of crop or animal types. Men who ever handled glyphosate also showed a slight increased risk of NHL, but the association was not statistically significant (OR=1.1, 95% CI: 0.7-1.9) when adjusted for vital status, age, state, cigarette smoking status, family history of lymphohaemotapoietic cancer, high-risk occupations and high-risk exposures. A major strength of this analysis was that it used a large population-based sample in a farming community. However, the study had significant limitations. Specifically, there was low power to assess the risk of NHL with glyphosate with only 26 cases of NHL.

	3001-01
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Sandra A. Edwards SBN 154578	FOR COURT USE ONLY
Farella Braun + Martel LLP	
Russ Building, 235 Montgomery Street, 17th Floor	
San Francisco, CA 94104	
TELEPHONE NO.: 415-954-4428 FAX NO.: 415-954-4480 F-MAIL: sedwards@fbm.com	
ATTORNEY FOR (Name): Defendant Monsanto Company	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF	•
street address: 400 McAllister St.	
MAILING ADDRESS: 400 McAllister St. CITY AND ZIP CODE: San Francisco, CA 94104	
BRANCH NAME: Civic Center	
DIDAYOTTANIC. CIVIC CONTO	·
PLAINTIFF/PETITIONER: Dewayne Johnson	
DENDANT/RESPONDENT: Monsanto Company, et al.	
DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS	case number: CGC-16-550128

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of deponent, if known):

Stanford University Medical Center, Health Information Management Services, Release of Information Office, 430 Broadway, Room C14, MC5200, Redwood City, CA 94063

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:

To: The Marker Group, Inc. On: October 25, 2017 At: 5:00 PM Location: 13105 Northwest Freeway, Suite 300 Houston, TX 77040 Do not release the requested records to the deposition officer prior to the date and time stated above.

- a. 🔽 by delivering a true, legible, and durable copy of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address
- b. n by delivering a true, legible, and durable copy of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).
- by making the original business records described in item 3 available for inspection at your business address by the С. 🗆 attorneys representative and permitting copying at your business address under reasonable conditions during normal business
- 2. The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.
- 3. The records to be produced are described as follows (if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified):
 - ☑ SEE ATTACHMENT 3.
- 4. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT, YOU WILL ALSO BE LIABLE

Date issued: October 5, 2017	Dag a Euro
(TYPE OR PRINT NAME)	(SIGNATURE OF PERSON ISSUING SUBPOENA)

Order No. 395001-15

(Proof of service on reverse)

				SUBP-010
PLAINTIFF/PETITIONER:	Dewayne Johnson		CASE NUMBER: CGC	2-16-550128
DEFENDANT/RESPONDE	Monsanto Company, et al.			
DEFENDANT/RESPONDE	PROOF OF SERVICE OF DE	POSITION SUBPOENA	FOR	
	PRODUCTION OF B	USINESS RECORDS		
1. I served this Dep as follows:	osition Subpoena for Production of Business	Records by personally d	delivering a copy to the	e person served
a. Person served	d (name):			
b. Address wher	e served:			
c. Date of delive	ry:			
				•
d. Time of delive e. (1) 🗆 Witne	ery: ess fees were paid.			
e. (1) a withe	ount: \$	·		
(2) 🗆 Copyi	ing fees were paid.			
Amo	ount:			
f. Fee for servi	ice: \$			
2. I received this su	abpoena for service on (date):			
	bpoeria for service of (dato).			
3. Person serving:	ered California process server.		•	
_	heriff or marshal.			
c. 🗆 Registered	d California process server.			•
d. Employee of	or independent contractor of a registered Ca n registration under Business and Profession	alifornia process server. s Code section 22350(b))	
f. Registered	professional photocopier.			
g. 🗆 Exempt from	m registration under Business and Profession	ons Code section 22451		
h. □ Name, addr	ess, telephone number, and, if applicable, co	unty of registration and r	number:	
			•	•
			•	
I declare under pena California that the for	alty of perjury under the laws of the State of regoing is true and correct.		eriff or marshal use of regoing is true and col	
Date:		Date:		
Dato.				

(SIGNATURE)

(SIGNATURE)

SHORT TITLE:

Dewayne Johnson vs. Monsanto Company, et al.

CGC-16-550128

ATTACHMENT (Number): 3

(This Attachment may be used with any Judicial Council form.)

The entire original medical record of Dewayne L. Johnson (

), including but not limited to all admitting and discharge summaries, doctors' progress notes, nursing notes, orders, operative reports and summaries, consultation records and reports, diagnostic studies, toxicology screens and reports, x-rays, scans, clinic files, laboratory slips and records, pathology reports and studies, billing and payment records and any other documents pertaining to Dewayne L. Johnson, whether located within or outside your medical office's central medical file system.

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 1 of 1

(Add pages as required)

Date of Birth

5495

AUTHORIZED IN CONNECTION WITH

Dewayne Johnson v. Monsanto Company In the Superior Court of the State of California for the County of San Francisco Case No. CGC-16-550158

AUTHORIZATION FOR RELEASE OF MEDICAL RECORDS

In Compliance With the Health Insurance Portability and Accountability Act of 1996 (HIPAA)

Stanford University Medical Center To: Name of Entity 300 Pasteur Drive, Room H1524 Address Stanford, CA 94305 City, State, Zip Code

707-644-5657

Pursuant to the Health Information Portability and Accountability Act (HIPAA) Privacy Regulations, 45 CFR § 164.508, you are hereby authorized to release my entire medical records file to the Records Requesters listed below. This release authorizes you to furnish copies of all medical records, including but not limited to medical history or examination reports and notes, laboratory reports, pathology slides, reports, notes and specimens, radiographic films, CT scans, X-rays, MRI films, MRA films, correspondence, progress notes, prescription records, echocardiographic recordings, written statements, employment records, wage records, insurance, Medicare, Medicaid and disability records, and medical bills regarding my injuries, diseases, diagnoses, or treatment, specifically including but not limited to cancer diagnoses and treatment.

This authorization is being given at my request in conjunction with the civil litigation matter listed above. You are hereby authorized to release these medical records to the following Records Requesters for their use in the above-entitled litigation. The defendant has agreed to pay reasonable charges to supply copies of such records. Copies of any records obtained will be provided, per agreement, to my legal counsel. You should provide all documents and information to:

Records Requesters

FARELLA, BRAUN + MARTEL LLP, 235 Montgomery Street, 17th Floor, San Francisco, CA 94104, (415) 954-4400, or any member, associate, or designee of the firm.

HOLLINGSWORTH LLP, 1350 I Street, N.W., Washington, DC 20005, (202) 898-5800, or any member, associate, or designee of the firm.

I understand that the health information being used/disclosed may include information relating to and treatment of Human Immunodeficiency Virus (HIV), Acquired Immune Deficiency Syndrome (AIDS), sexually transmitted diseases, mental health, and drug and alcohol disorders.

I understand that this authorization pertains to the civil litigation referenced above. Therefore, this authorization shall expire upon the final resolution by all parties of the aforementioned civil litigation, either by final adjudication, final settlement agreement, final judicial dismissal, or by other final judicial order, including but not limited to the resolution of any and all appeals. I understand that this authorization remains in full force and effect until such expiration or revocation, as more fully described below, and further authorizes you to release to the Records Requesters any additional records created or obtained by you after the date of execution of this authorization. I understand and intend that you may rely on this authorization in all respects unless you have previously been advised by me in writing to the contrary.

I understand that I may revoke this authorization at any time by providing you a written revocation, but that my revocation will be effective only to the extent that the information has not already been released. I further understand that the covered entity to whom this authorization is directed may not condition treatment, payment, enrollment or eligibility benefits on whether or not I sign this authorization.

It is expressly understood and intended by the undersigned that you are hereby authorized to accept a copy or photocopy of this authorization with the same validity as though an original had been presented to you.

I understand that any documents or information released by you could potentially be redisclosed by the aforementioned Records Requesters and that any information re-disclosed by that party is not subject to this authorization and may not be subject to HIPAA, the Federal Regulations promulgated under the authority of HIPAA, and more specifically, the requirements imposed by 45 C.F.R. § 164.508. I expressly permit the Records Requesters to re-disclose my medical records file for purposes limited to this civil litigation matter or related to the defendant's obligations to provide information to the Environmental Protection Agency.

FEDEX OFFICE 5495

This authorization shall not be valid unless one of the Records Requesters named above has executed the acknowledgment at the end of this authorization.

This authorization is executed and served in compliance with HIPAA, the Federal Regulations promulgated thereunder, and more specifically, 45 C.F.R. § 164.508, all of which govern the requirements for the release of private health information.

Name of Patient

Signature

Date of Birth

Date Signed

05

ACKNOWLEDGMENT

The undersigned, as one of the Records Requesters named in the above medical authorization, hereby declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the attorney for the patient named in the foregoing medical authorization has been given notice that the authorization will be used to request records and information from the person or entity to whom it is addressed. The attorney for or the person named in the foregoing medical authorization has also been afforded an opportunity to order copies of the records requested from the undersigned requester at a reasonable cost.

Records Requester's Signature:

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):	FOR COURT USE ONLY
Sandra A. Edwards SBN 154578	
Farella Braun + Martel LLP	,
Russ Building, 235 Montgomery Street, 17 th Floor	
San Francisco, CA 94104	
TELEPHONE NO.: 415-954-4428 FAX NO.: 415-954-4480	
E-MAIL: sedwards@fbm.com ATTORNEY FOR (Nome): Defendant Monsanto Company	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF	
STREET ADDRESS: 400 McAllister St. MAILING ADDRESS: 400 McAllister St. CITY AND ZIP CODE: San Francisco, CA 94104 BRANCH NAME: Civic Center	
PLAINTIFF/PETITIONER: Dewayne Johnson DENDANT/RESPONDENT: Monsanto Company, et al.	
DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS	CASE NUMBER: CGC-16-550128

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of deponent, if known):
Kaiser Permanente Central Support Services, 2835 Mitchell Drive, Suite 200, Walnut Creek, CA 94598

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:

To: The Marker Group, Inc.

On: October 29, 2017

At: 5:00 PM

Location: 13105 Northwest Freeway, Suite 300 Houston, TX 77040

Do not release the requested records to the deposition officer prior to the date and time stated above.

- a.

 by delivering a true, legible, and durable copy of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.
- b. \Box by delivering a true, legible, and durable copy of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).
- c.

 by making the original business records described in item 3 available for inspection at your business address by the attorneys representative and permitting copying at your business address under reasonable conditions during normal business hours.
- 2. The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.
- 3. The records to be produced are described as follows (if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified):

☑ SEE ATTACHMENT 3.

4. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: October 9, 2017	Þ	Sur GEN	
(TYPE OR PRINT NAME)	9990-0-000	(SIGNATURE OF PERSON ISSUING SUBPOENA)	

Order No. 395001-23

(Proof of service on reverse)

(TITLE)

Page 1 of 2

PLAINTIFF/PETITIONER:	Dewayne Johnson	CASE NUMBER: CGC-16-550128
DEFENDANT/RESPONDENT:	Monsanto Company, et al.	
	PROOF OF SERVICE OF DEPOSITION SURPOEMA	EOB

DEF	ENDANT/RESPONDENT:	Tribulatio Company, crass			
		PROOF OF SERVICE OF DE	POSITION SUBPOENA	FOR	
		PRODUCTION OF B	JSINESS RECORDS		
1.	I served this <i>Depositior</i> as follows:	Subpoena for Production of Business I	Records by personally de	livering a copy to the pers	on served
	a. Person served (nam	e):			
	b. Address where serve	ed:			
					•
	c. Date of delivery:				
	(2) Copying fee	\$			
	f. Fee for service:	\$	_		
2	. I received this subpoen	a for service on (date):			
3	b. □ California sheriff of c. □ Registered Califf d. □ Employee or indefee. □ Exempt from regist. □ Registered profess	ornia process server. pendent contractor of a registered Cali tration under Business and Professions sional photocopier.	Code section 22350(b).		
		tration under Business and Professior lephone number, and, if applicable, coul		nber:	
				•	
	eclare under penalty of p	erjury under the laws of the State of is true and correct.		f or marshal use only) oing is true and correct.	
Dat	e:		Date:		
-					
		(SIGNATURE)		(SIGNATURE)	

LIART TITLE:	CASE NUMBER:	MC-
SHORT TITLE: Dewayne Johnson vs. Monsanto Company, et al.		6-550128
	<u></u>	
ATTACHMENT (Number)		
(This Attachment may be used with any Judi The entire original medical record of Dewayne L. Johnson (ciai Councii form.)	
), including but not limited to all admitting and dis	charge summaries, d	octors' progres.
otes, nursing notes, orders, operative reports and summaries		
iagnostic studies, toxicology screens and reports, x-rays, sca		
ecords, pathology reports and studies, billing and payment re		
ertaining to Dewayne L. Johnson, whether located within or o	outside your medical	office's central
nedical file system.		
		,
		•
		•

(Add pages as required)

Attachment are made under penalty of perjury.)

09/28/2017 16:11 707-644-5657 FEDEX OFFICE Patient Name: Dewayne Johnson KAISER PERMANENTE. Medical Record number: Birth Date: (*Kaiser Permanente entities are listed on reverse side of this form) Address: **AUTHORIZATION FOR USE** City: State: OR DISCLOSURE OF PATIENT Zip Code: Phone #: **HEALTH INFORMATION** Note: Fees may apply to certain requests Kalser Permanente may release this information to: Check if same as above Recipient Name: Sandra Edwards, Farella Braun: + Martel Lip Address: 235 Montgomery Street, 17th Floor Zip Code: 94104 City: San Francisco State: CA Phone # (415)/954-4400 Email: sedwards@forr.com This disclosure can be used for the following purpose(s): Personal Use ⊠ Legal ☐ Insurance ☐ Medical Treatment ☐ Medical Condition Venification ☐ Disability ☐ FMLA ☐ Workers' Comp Check ONLY one of the following three options to identify the health information to be released. Option 1: Form Completion (a substitute form or relevant medical records may be released) ☐ Option 2: Last 2 years of Kaiser Permanente Medical Office and Kaiser Foundation Hospital records ☑ Option 3: Records as specified. You must complete Step 1 and Step 2 below. Step 1. Enter date range or date(s) of the records to be released: 09/01/1992 present Step 2. Select types of records to be released: ☑ KP Medical Office ■ Copays & Deductibles ☑ Itemized Billing M Pharmacv ☑ Diagnostic Images ☑ Other (provider, department, specialty): Occupational Health; all other Kaiser records NOTE: Hospital and Medical Office records released as part of this authorization may contain references related to mental health, addiction, and HIV medical conditions. Check the boxes below if you want this release to include the following information, Otherwise,

this information will be excluded.

☐ Mental Health Treatment Records ☐ Addiction Medicine Treatment Records ☐ HIV Test Results

Media Type:

Electronic DURATION: Authorization shall remain in effect for one year from the date of signature below. However, in

Paper

Washington, D.C. permission to release addiction medicine treatment records expires after six (6) months. REVOCATION: You or your personal representative may cancel this authorization for future releases by submitting a written request to the Release of Information Unit listed for your region of service on the reverse side of this form. Your cancellation will not affect information that was released prior to receipt of the written request.

Delivery Preference:

Electronic

REDISCLOSURE: Once this information is released, it may not be protected under federal privacy law (HIPAA). State or other federal law may require the recipient to obtain your authorization before further disclosure.

Kaiser Permanente may not condition treatment, payment, enrollment, or eligibility for benefits on whether you sign this authorization. This disclosure is made at your request. For Virginia patients, a copy of this authorization, and a note stating to whom your information was disclosed will be included in your medical record. A copy of the original authorization is valid. You have a right to a copy of this completed authorization.

NG-8884 (2-10) SPANISH-NG-1814; CHINESE-NS-8274 NCAL: 90258 (REV. 2-18) SPANISH 01782-000; CHAPESE 01782-00

If personal representative, print name/relationship

☐ Mail

☐ Pickup

ACKNOWLEDGMENT

The undersigned, as one of the Records Requesters named in the above medical authorization, hereby declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the attorney for the patient named in the foregoing medical authorization has been given notice that the authorization will be used to request records and information from the person or entity to whom it is addressed. The attorney for or the person named in the foregoing medical authorization has also been afforded an opportunity to order copies of the records requested from the undersigned requester at a reasonable cost.

Records Requester's Signature:

```
1
         SUPERIOR COURT OF THE STATE OF CALIFORNIA
2
                FOR THE COUNTY OF SAN FRANCISCO
 3
4
    DEWAYNE JOHNSON,
                                  )
5
                    Plaintiff,
                                 )
 6
          -vs-
                                  ) Case No.
7
    MONSANTO COMPANY,
                                 ) CGC-16-550128
8
                    Defendant. )
9
                          CONFIDENTIAL
10
          The deposition of TIMOTHY KUZEL, M.D., called
    by the Plaintiff for examination, taken before
11
12
    CORINNE T. MARUT, C.S.R. No. 84-1968, Registered
    Professional Reporter and a Certified Shorthand
13
14
    Reporter of the State of Illinois, at the Hilton
15
    Chicago/Oak Brook Hills Resort & Conference Center,
16
    3500 Midwest Road, Oak Brook, Illinois, on
17
    Saturday, February 17, 2018, commencing at
18
    11:05 a.m.
19
20
21
22
23
24
```

Confidential - Timothy Kuzel, M.D.

```
1
                    (WHEREUPON, a certain document was
2
                    marked as Kuzel Deposition Exhibit
 3
                    No. 1: Expert Report with
 4
                    curriculum vitae.)
5
                    (WHEREUPON, the witness was duly
 6
                     sworn.)
7
                    TIMOTHY KUZEL, M.D.,
8
    called as a witness herein, having been first duly
9
    sworn, was examined and testified as follows:
10
                        EXAMINATION
11
    BY MR. LITZENBURG:
12
         Q. Dr. Kuzel, good morning. My name is
13
    Tim Litzenburg. We met a moment ago off the
14
    record. I represent Dewayne Johnson in this case
15
    against Monsanto. Do you understand that?
16
         Α.
               Yes.
17
               Okay. And you have been retained by
         Q.
18
    Monsanto to testify as an expert witness in this
19
    trial, is that right?
20
         Α.
               Yes.
21
         Q. When did Monsanto or its attorneys first
22
    contact you?
23
         A. Sometime in the summer of last year.
24
         Q.
               Was that in the context of the prognosis
```

Confidential - Timothy Kuzel, M.D.

- 1 A. It may be linked to oxidative stress.
- Q. Do you know who Dr. Perry is?
- A. I don't know who Dr. Perry is.
- 4 Q. In this context I'll represent that he
- 5 is a scientist with an expertise in genotoxicity
- 6 who did perform some work for Monsanto in the '80s
- 7 or '90s. Are you familiar with any of that work?
- 8 A. None of it.
- 9 Q. When was Mr. Johnson diagnosed with
- 10 squamous cell carcinoma?
- 11 A. Sort of once he had been diagnosed with
- 12 MF on one of his visits, I think it was perhaps six
- 13 months after the diagnosis.

- Q. Do you hold an opinion that Mr. Johnson
- does not have large cell transformation?
- 19 A. No, he's got lesions that have large
- 20 cell transformation in them on a lesional basis.
- Q. You seemed critical of his -- of that
- 22 characterization in your report?
- 23 A. Critical of the whole concept of large
- 24 cell transformation in isolation.

```
1
           I, CORINNE T. MARUT, C.S.R. No. 84-1968,
    Registered Professional Reporter and Certified
2
    Shorthand Reporter, do hereby certify:
 3
                That previous to the commencement of the
    examination of the witness, the witness was duly
    sworn to testify the whole truth concerning the
    matters herein:
 5
                That the foregoing deposition transcript
    was reported stenographically by me, was thereafter
    reduced to typewriting under my personal direction
    and constitutes a true record of the testimony
    given and the proceedings had;
7
                That the said deposition was taken
    before me at the time and place specified;
                That the reading and signing by the
    witness of the deposition transcript was agreed
9
    upon as stated herein;
10
                That I am not a relative or employee or
    attorney or counsel, nor a relative or employee of
11
    such attorney or counsel for any of the parties
    hereto, nor interested directly or indirectly in
12
    the outcome of this action.
13
14
                CORINNE T. MARUT, Certified Reporter
15
                  (The foregoing certification of this
16
    transcript does not apply to any
    reproduction of the same by any means, unless under
17
    the direct control and/or supervision of the
    certifying reporter.)
18
19
20
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22
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24
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1	SUPERIOR COURT OF THE STATE OF CALIFORNIA
2	COUNTY OF SAN FRANCISCO
3	
4	DEWAYNE JOHNSON)
)
5	Plaintiff,)
)
6	vs.) No. CGC-16-550128
)
7	MONSANTO COMPANY,)
)
8	Defendants.)
9	
10	The videotaped deposition of
11	CHADI NABHAN, M.D.
12	January 30, 2018
13	11:00 a.m.
14	Crowne Plaza O'Hare
15	5440 North River Road
16	Rosemont, Illinois
17	
18	
19	
20	
21	
22	
23	
24	
25	
	Page 1

1	action, nor am I financially interested in the
2	outcome.
3	Counsel and all present in the room
4	and everyone attending remotely will now state their
5	appearances and affiliations for the record. If
6	there are any objections to proceeding, please state
7	them at the time of your appearance beginning with
8	the noticing attorney.
9	MR. LITZENBURG: Timothy Litzenburg for
10	the plaintiff, Dewayne Johnson.
11	MR. GRIFFIS: Kirby Griffis of
12	Hollingsworth, LLP for Monsanto.
13	MS. SALEK: Stephanie Salek from
14	Hollingsworth, LLP for Monsanto.
15	THE VIDEOGRAPHER: Will the court
16	reporter please swear in the witness.
17	(Witness sworn at 10:55 a.m.)
18	WHEREUPON:
19	CHADI NABHAN M.D.,
20	called as a witness herein, having been first duly
21	sworn, was examined and testified as follows:
22	EXAMINATION
23	BY MR. GRIFFIS:
24	Q. Good morning, Dr. Nabhan.
25	A. Good morning.
	Dage 6

1	right?
2	MR. LITZENBURG: Object to form, asked
3	and answered.
4	THE WITNESS: Today I have no opinion
5	unless I research the topic. But today, as we
6	speak, I don't have an opinion because I did not
7	research it.
8	BY MR. GRIFFIS:
9	Q. Do you have an opinion that Mr. Johnson's
10	mycosis fungoides caused his squamous cell
11	carcinoma?
12	A. Say it again.
13	Q. Do you have an opinion that Mr. Johnson's
14	mycosis fungoides caused his squamous cell
15	carcinoma?
16	A. I don't have an opinion on that matter,
17	no.
22	Q. Have you reviewed literature on whether
23	mycosis fungoides can cause squamous cell carcinoma
24	or the reverse?
25	A. There are some associations. I mean, I
	Page 182

1	REPORTER CERTIFICATE
2	
3	I, JO ANN LOSOYA, a Certified Shorthand
4	Reporter within and for the County of Cook and State
5	of Illinois, do hereby certify:
6	That previous to the commencement
7	of the examination of the witness, the witness was
8	duly sworn to testify the whole truth concerning the
9	matters herein;
10	That the foregoing deposition
11	transcript was reported stenographically by me, was
12	thereafter reduced to typewriting under my personal
13	direction and constitutes a true record of the
14	testimony given and the proceedings had;
15	That the said deposition was taken
16	before me at the time and place specified;
17	That I am not a relative or
18	employee or attorney or counsel, nor a relative or
19	employee of such attorney or counsel for any of the
20	parties hereto, nor interested directly or
21	indirectly in the outcome of this action.
22	
23	
24	
25	

1			IN WITNE	ISS	WHEREOF,	I	do	hereunto	set	mУ
2	hand	this	February	13,	2018.					
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4										
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8			Jann.	Ka	2040					
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10			JO ANN LO	SOY	TA, CSR					
11			C.S.R. No	. 8	4-002437					
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1	OF THE STATE OF CALIFORNIA	3	EVAMINATION BY-	DACE	
i	DEWAYNE JOHNSON,)	4	EXAMINATION BY:	PAGE	
	Applicant,)	5	Ms. Cunningham	A 135	
	-vs-) CASE NO.	6	Mr. Levitz	4, 135 130	
_	BENICIA UNIFIED SCHOOL) ADJ10102319,	7	Pit Levitz	130	
	DISTRICT, PSI AS A SELF-INSURED) ADJ10094287	8			
	GROUP, ADJUSTED BY NORTH BAY)	9	oOo 		
1	SCHOOLS INSURANCE AUTHORITY,)	10	300		
	Defendants.	11	Deponent's Changes or Corrections Page	137	
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	DEPOSITION OF	17			
	, DEWAYNE JOHNSON	18			
	October 28, 2015	19			
		20			
		21			
		22			
		23			
	D. I. I. MOTODYA I DETERMINANT MANAGEMENT	24			
	Reported by: VICTORIA L. PETERSON, CSR #6992	25		_	
ŀ	1 PETERSON DEPOSITION REPORTERS		PETERSON PEROSITION P	3	
	601 University Avenue, Suite 213, Sacramento, CA 95825		PETERSON DEPOSITION RI	· -	
1	(916) 646-1891		601 University Avenue, Suite 213, Sac (916) 646-1891	ramento, CA 95825	
1	APPEARANCES:	1	BE IT REMEMBERED that on Wednesda		
2		2	October 28, 2015, commencing at the hour	• '	
3	FOR THE APPLICANT:	3	12:08 p.m., at the offices of LEVITZ LEGAL		
4	LEVITZ LEGAL GROUP	4	Attorneys at Law, 2216 Laguna Vista Drive,	*	
5	Attorneys at Law	5	California, before me, VICTORIA L. PETERSO	ON, a	
6	BY: BRUCE LEVITZ, Esq.	6	Certified Shorthand Reporter, empowered to	administer	
7	2216 Laguna Vista Drive	7			
8	Novato, CA 94945	8	and a second of personally appeared		
9		9	DEWAYNE JOHNSON,		
10	FOR THE DEFENDANT:	10	an applicant in the within-entitled matter, co		
11	LAW OFFICES OF CRYSTAL CUNNINGHAM	11	a witness by the defendant, who, having be	·	
12			sworn by the Certified Shorthand Reporter t		
13 14	BY: CRYSTAL CUNNINGHAM, Esq.	13	truth, the whole truth, and nothing but the	rutn,	
15	2485 Natomas Park Drive, Suite 420 Sacramento, CA 95833	14	testified as follows:		
16	Sacialicito, CA 95055	16	000 · FYAMINATION BY MS. CLININI	NCHAM	
17	ALSO PRESENT:	17	Q. Good afternoon, Mr. Johnson. My na		
18	Catherine Chyi, Esq.	18	Crystal Cunningham, and I represent the Sc		
19		19	District on the workers' compensation claim		
20		20	filed.	, ou	
21		21	Please state your entire name for th	e record.	
22		22	A. Dewayne Anthony Lee Johnson.		
23		23	Q. What is your date of birth?		
24		24	A. 1/20/72.		
25		25	Q. Have you ever goné by any other na	mes?	
	2			4	
PETERSON DEPOSITION REPORTERS			PETERSON DEPOSITION REPORTERS		
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like it wasn't in my eyes and in my mouth. It's on my lymphoma? skin. It didn't start to burn or tingle right away. 2 Α. When I really started paying attention to 3 You know, I didn't notice anything until later. 3 it, it would have to be right before I went to 4 When you say you didn't notice anything until Santa Maria, about a few weeks before Santa Maria. 5 later, when are you referring to? But I didn't really even trip on it. I didn't even 6 Α, What I'm referring to is that I had marks and 6 really worry about it at all. 7 things that were not going away. 7 But later on, after I had the rollover crash in 8 8 And then as things went on, I ended up with Santa Maria, that mark still never went away. And it 9 this -- what I call it is a "mother mark" -- because got worse and worse to the point where it got painful. 10 this is where it all started -- on my knee, and that 10 And that's what sent me to the clinic -- because I 11 mark would not go away. And that was a few months 11 didn't have coverage at that time -- the 12 later after my exposure of showering of the pesticide 12 La Clinica Vallejo. Those were the folks that 13 that I got that mark, and I could not get it to go 13 referred me to Solano Dermatology. So that's when I away. And I had that little -- I don't know. It's 14 14 found out that that wasn't just a mark. It was the 15 like it just -- it was bad from there on in. After 15 mother mark. 16 that, that mark wouldn't go away, and I started 16 Q. And just for clarification, you didn't go to 17 finding little marks. Just more and more marks 17 the industrial doctor or anything as a result of that 18 started to come. 18 exposure, correct? 19 When you say that it got on your shoulder, 19 Correct. 20 which shoulder? 20 I mean, that day when I got it on me, I had 21 Α. This side (indicating). 21 goggles on or whatever, and whatever parts that got on 22 Q. 22 So your left side? me, it wasn't like an immediate, like, "Oh, my God," Α. 23 Yes. This (indicating) was the most exposed 23 like an acid or something, battery acid, just 24 side. It got pretty much everywhere, but this side 24" something burning through. So, yeah, that day I 25 (indicating) really got it bad, because I had to reach didn't go to industrial. Like a broken arm or a hurt PETERSON DEPOSITION REPORTERS PETERSON DEPOSITION REPORTERS 601 University Avenue, Suite 213, Sacramento, CA 95825 601 University Avenue, Suite 213, Sacramento, CA 95825 (916) 646-1891 (916) 646-1891 in and do what I had to do with that switch. So this back, I had immediate, boom, boom, no. 2 (indicating) was the side that was in. 3 Q. And what you call the "mother mark on your 4 knee," was that on your right knee? 5 Α. Right knee. 6 Q. Did you notice any type of burning or tingling 7 or skin irritation on that day? 8 A. That day, I don't recall. It's been a long 9 time. I don't -- all I know is every day you're going to shower, right. So even if -- I would have to 10 11 shower anyway. But definitely I was running home to 12 shower that day. And I don't know -- you know, I 13 don't know. I don't remember anything. It's been a while, that long, to remember tingling or anything. 14 15 Could have been. I don't know. 16 And when you say that you didn't notice 17 anything until later, you're referring to the mark on 18 your knee, correct? 19 Α. Yes. The mark on the knee just got worse and 20 worse. It just -- it started as almost nothing, and 21 it got worse. 22 Q. How long did you have that mark on your knee 23 before you went for treatment? 24 Α. For treatment for what? 24 Q. Why did you reach your hand in the bag? 25 Q. Well, until they discovered that you had the 25 Α. To put a little bit more powder in there. 94 96 PETERSON DEPOSITION REPORTERS PETERSON DEPOSITION REPORTERS 601 University Avenue, Suite 213, Sacramento, CA 95825 601 University Avenue, Suite 213, Sacramento, CA 95825 (916) 646-1891 (916) 646-1891

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Because what it is, it's an old-school machine that spray truck and a work truck and a truck that's 2 basically used for spraying. Because that truck is 2 you'd fill up these four canisters. I don't know if you've seen people line a baseball field. full of residue. It's full of pesticide residue no 3 3 matter what. You can't get that out. It goes out Q. 4 5 5 when it's done. When it sticks, it sticks. So it Α. So that one baseball liner, they hook four or 6 five together -- and this is very primitive. 6 could have been any time that, you know, you're 7 7 getting exposed, because the chemicals are here, I didn't say that just because you look like you're the oldest person here, but you might have seen especially if you don't understand them and if you're 8 9 being put -- put in a different work environment that 9 this before. 10 They push this thing down the road, right, down 10 folks maybe not be totally clear what they're doing to the track, and it has powder filled in the canisters. you, you know, so... 11 11 12 It's like the one baseball liner. There's four of 12 Q. How long have you had Kaiser insurance? them. And you take a Dolomark, you fill them up, fill 13 Α. I didn't have Kaiser when I started. So it 13 would have to be about two to three years. I actually 14 them up, fill them up, sit the bag on top, and you 14 15 push this thing around the whole track, and you make 15 got Kaiser after I had the rollover crash, because I 16 those beautiful white chalk lines that people mess up 16 knew now I needed some medical coverage. Before then, as soon as they touch them. So, yeah, that's the way 17 I was pretty healthy. I was getting away with it. I 17 18 they line the tracks at Benicia Unified School 18 didn't need medical -- I mean, I probably needed it, District with the six canisters of Dolomark. 19 but I didn't need it. It was not like I'm walking 19 20 around sick and didn't have coverage. I was walking 20 Q. And so you reached in one time in one of them? 21 Α. Yeah. Just once. I never did that again. 21 around in great health and bragging about it. And I Q. didn't need coverage because I couldn't afford it. So 22 And did you notice any burning or a skin 22 23 irritation? 23 it became to the point where I really needed it, Α. 24 because the rollover brought more situations to where 24 No. One of the older guys told me, he said, 25 "You know that's lime. You don't want to be just 25 I had to go to the doctor. I had to see different 97 99 PETERSON DEPOSITION REPORTERS PETERSON DEPOSITION REPORTERS 601 University Avenue, Suite 213, Sacramento, CA 95825 601 University Avenue, Suite 213, Sacramento, CA 95825 (916) 646-1891 (916) 646-1891 sticking your hand in that." So I guess we usually 1 things and couldn't afford it out of my pocket. 2 don't stick our hand. You grab a bag, and you --2 Q. Have you ever had insurance other than Kaiser? 3 3 And so ever since that after, after he told me Α. Only Kaiser. When I worked for Vallejo was the 4 it's lime, "You don't want to go touching that," I 4 only time I ever had good coverage or some serious 5 wear gloves and PPE, a mask and gloves, to the point 5 coverage was when I worked for Vallejo for those nine 6 of laughter. "You're wearing your mask out here?" 6 years. I had very good coverage out there, cheaper 7 7 "Yeah, I'm wearing my mask. You should, too." than this. 8 Ο. And who was your insurance carrier? 9 Α. Kaiser. 10 Q. When you were with Kaiser when you were at 11 Vallejo, it was the entire time that you worked there 12 that you had it? 13 I don't know when I first started if I got it. Do you know what I mean? But I know for the majority 14 15 of the time, I had it, full coverage, me and myself. When you had Kaiser the first time, which 16 Q. 17 facilities did you seek treatment at? 18 Α. Only Valleio. learned later that, you know, you're supposed to have 19 Q. 19 So you never had any insurance other than 20 20 separate boots for spraying, separate boots for rain. Kaiser? 21 We didn't learn that until after. You know, I've 21 Α. Not that I recall. 22 22 sprayed gallons, thousands of gallons of this. You Q. Have you ever sought any treatment through the 23 23 have to have certain things. I don't think you're County or Medi-Cal or anything?

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supposed to get back in your work truck after you've

been spraying. I think you're supposed to have a

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I did. I seeked (sic) Medi-Cal on more than

one occasion at different times when I wasn't working.

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24 A.

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				_
1	DEPONENT'S CHANGES OR CORRECTIONS	1	PETERSON DEPOSITION REPORTERS 601 University Avenue, Suite 213	
2			Sacramento, California 95825	
3			(916) 646-1891	
	the exact words you want to add. If you are	3		
4	deleting words from your testimony, print	4	November 5, 2015 .	
-		۱ -		
_	the exact words you want to delete.	5	DEWAYNE JOHNSON 2851 REDWOOD, NUMBER 109	
5		6	VALLEJO, CA 94591	
	Specify with "Add" or "Delete" and sign this	l _		
6	form.	7	RE: JOHNSON v. BENICIA U.S.D. Date taken: October 28, 2015	
		8		
7	Deposition of: DEWAYNE JOHNSON	9	Dear Deponent:	
	Case Title: JOHNSON v. BENICIA U.S.D.	"	Your deposition taken in the above-entitled action is	
8	Date of Deposition: October 28, 2015	10	now available for your review. If you are represented	
_	I,, have the following	11	by counsel, you may read your attorney's copy and advise us by letter of any changes you wish to make in	
9	1/, have the long wing	**	your testimony, or elect to come into our office and	
7		12	read and sign the original transcript between the	
	corrections to make to my deposition:	13	hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, or approve the transcript in its printed form.	
10		1	Triady, or approve the transcript in its printed form.	
11	PAGE LINE CHANGE/ADD/DELETE	14	If you wish to read your transcript, please call our	
12		15	office between the hours of 8:30 a.m. and 4:30 p.m. to schedule an appointment.	
13		i i	sereda je an apponicijene.	
14		16	If you have any questions regarding reading,	
15		17	correcting and signing your deposition, please consult your attorney.	
16				
17		18	If we do not hear from you within thirty days, we will assume you are waiving your signature, and the	
18		19	original transcript will be sealed and forwarded to	
19		1 20	the noticing attorney. It is our policy not to	
	West without white and a second secon	20	release the original transcript from our office.	
20		21	Very truly yours,	
21		22		
22		22		
23		23		
24	Signature:Date;	24	Peterson Deposition Reporters	
25			reterson beposition reporters	
	137	25	cc: BRUCE LEVITZ, Esq. CRYSTAL CUNNINGHAM, Esq.	
	PETERSON DEPOSITION REPORTERS		CRISTAL CONNINGNAM, ESQ.	139
		1		
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1 2	(916) 646-1891		601 University Avenue, Suite 213, Sacramento, CA 95825	
	(916) 646-1891 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER		601 University Avenue, Suite 213, Sacramento, CA 95825	_
2 3	(916) 646-1891 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER I, VICTORIA L. PETERSON, a Certified Shorthand		601 University Avenue, Suite 213, Sacramento, CA 95825	_
2 3 4	(916) 646-1891 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER		601 University Avenue, Suite 213, Sacramento, CA 95825	
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2 3 4	(916) 646-1891 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER I, VICTORIA L. PETERSON, a Certified Shorthand Reporter, licensed by the State of California, being		601 University Avenue, Suite 213, Sacramento, CA 95825	
2 3 4 5 6	(916) 646-1891 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER I, VICTORIA L. PETERSON, a Certified Shorthand Reporter, licensed by the State of California, being empowered to administer oaths and affirmations pursuant to Section 2093(b) of the Code of Civil		601 University Avenue, Suite 213, Sacramento, CA 95825	
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35 of 51 sheets

Page 137 to 139 of 139

11/05/2015 05:32:33 AM

1	SUPERIOR COURT OF THE STATE OF CALIFORNIA				
2	FOR THE COUNTY OF SAN FRANCISCO				
3					
4					
5	x				
6	DEWAYNE JOHNSON, No. CGC-16-550128				
7	Plaintiff,				
8	v. Judge: Hon. Curtis E.A. Karnow				
9	MONSANTO COMPANY, et al., Dept. 304				
10	Defendants.				
11	x				
12					
13					
14	CONFIDENTIAL				
15	DEPOSITION OF JOHN R. FOWLE, III, Ph.D.				
16	Washington, D.C.				
17	February 22, 2018				
18					
19					
20					
21					
22					
23	GOLKOW LITIGATION SERVICES				
24	T 877.370.3377 F 917.591.5672				
25	deps@golkow.com				
1					

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 3
 5
                         February 22, 2018
                         Washington, D.C.
 6
                             9:07 a.m.
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11
             The following is the transcript of the
12
13
       deposition of JOHN R. FOWLE, III, Ph.D. held at the
       offices of Hollingsworth LLP, 1350 I Street, NW,
14
       Washington, DC 20005, and reported by Linda S.
15
       Kinkade, RDR, CRR, RMR, RPR, CSR, and Notary Public
16
17
       within and for the District of Columbia.
18
19
20
21
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24
25
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APPEARANCES:
 1
 2
 3
       On Behalf of Plaintiff:
                The Miller Firm, LLC
                108 Railroad Avenue
 6
                Orange, Virginia 22960
 7
                By: Timothy Litzenburg, Esq.
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                tlitzenburg@millerfirmllc,com
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13
       On Behalf of Defendants:
                Hollingsworth LLP
14
                1350 I Street, NW
15
                Washington, DC 20005
16
17
                By: William J. Cople III, Esq.
                wcople@hollingsworthllp.com
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                By: Grant W. Hollingsworth, Esq.
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24
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A P P E A R A N C E S (continued):
 1
 2
       On Behalf of Defendant Monsanto Company:
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                Chicago, Illinois 60601
 6
 7
                By: Sarah A. Krajewski, Esq.
                skrajewski@winston.com
 8
 9
10
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1	INDEX OF EXAMINATION	
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PROCEEDINGS
 1
                    JOHN R. FOWLE, III, Ph.D.,
 2
                having been first duly sworn, was
 3
       thereafter examined and testified as follows:
 5
                           EXAMINATION
       BY MR. LITZENBURG:
 6
             Q. Good morning, Dr. Fowle. My name is Tim
 7
       Litzenburg. We met off the record a moment ago, but
 8
       I represent Dewayne Johnson in this claim against
 9
       Monsanto for his non-Hodgkin lymphoma. Do you
10
       understand that?
11
12
             A. I do.
13
                 MR. COPLE: Before we begin, Monsanto
       designates provisionally as confidential the entire
14
15
       deposition transcript of Dr. Fowle as well as the
       exhibits pursuant to the Court's order on
16
17
       confidentiality.
             Also, Dr. Fowle is being produced today for
18
       deposition for seven hours on the record.
19
20
                 MR. LITZENBURG: We'll take as many hours
21
       as needed, but I will also designate -- plaintiffs
22
       designate provisionally the whole thing as well at
       the moment.
23
                         (Exhibit 1 marked for
24
25
                 identification: Letter to Dr. Fowle
```

each other. Is that okay? 1 A. I understand that, but if I could make one 2 3 clarification. Hollingsworth LLP hired me to do an independent analysis. They are not my attorneys, but, other than that, I agree with what you said. 5 Q. I just mean the attorneys for Monsanto. 6 7 Okay. Have you -- tell us about your EPA experience. 8 I've seen your expert report, and, if it would help 9 10 you, I would be happy to give you a copy. 11 (Exhibit 4 marked for identification: Expert Report of 12 13 John R. Fowle III, Ph.D.) A. No, that's okay. I think I can remember 14 15 it. About my EPA experience? 16 Q. Yes. 1.7 A. Okay. I was first hired in, I believe, January of 1980 as a geneticist in EPA's Carcinogen 1.8 19 Assessment Group doing mutagenicity risk assessments. 20 THE REPORTER: You need to slow down. 21 THE WITNESS: I'm sorry. I'm sorry. 22 THE REPORTER: That's okay. 23 A. So I was hired in 1980 as a geneticist 24 into EPA's Carcinogen Assessment Group. Subsequent 25 to that I was detailed to Congressman Gore's office.

Used to work on biotechnology because I had set up an 1 EPA program on biotechnology. 2 3 Following that I came back as a division director within the Office of Health Research on 4 5 drinking water activities. Based on that, I then went to Research Triangle Park, North Carolina for a 6 7 few years where I was an assistant laboratory director for drinking water research. 8 Subsequent to that I was detailed to Senator 9 10 Daniel Patrick Moynihan of New York to serve as a 7 6 science advisor and work with the environment and 12 public works committees. 13 Subsequent to that I came back to EPA and worked for the Science Advisory Board, where I was 1.4 15 deputy director of the Science Advisory Board. 16 Following that I went to Research Triangle 17 Park, North Carolina as the -- I can't remember, 1.8 maybe assistant or associate lab director -- I can't 19 remember the exact title -- for chemical safety 20 research, and I oversaw all the research, both eco 21 and health, that was being done to support informing 22 EPA's decisions in terms of regulation under both the 23 toxic substances office and the pesticides office. 24 I worked very closely with the directors of 25 those offices and also the system administrator for

- 1 what is now called Chemical Safety and Pollution
- 2 Prevention.
- 3 After doing that for several years -- and we
- 4 worked very close. As a matter of fact, subsequent
- 5 to that, I was asked to go to the EPA's pesticide
- 6 program, and I went to EPA's pesticide program as a
- deputy director of the pesticides program health
- 8 effects division, and I worked there for several
- 9 years overseeing a large staff. I think there was
- 10 something like 180 people there at that time. And I
- 11 was responsible for registration -- reregistration
- 12 and review assessment activities
- Q. Okay. So which years were you directly
- 14 employed by EPA?
- 15 A. The whole time. When I went to Gore and
- Moynihan I was detailed. So it was about 33 years,
- 17 19 -- early 1980 to 2012, something of that nature.
- 18 I can't recall.
- 19 Q. So when you were at Research Triangle you
- were being paid by EPA there?
- 21 A. Yes.
- Q. Did you get much accomplished there?
- 23 A. Yes, got a tremendous amount accomplished,
- 24 I believe, yes.
- Q. What were you studying?

registrant or the EPA? 1 A. Yes, it's the --2 MR. COPLE: Objection, asked and answered. 3 A. Yes, it's the registrant, but EPA reviews and approves those labels based on its guidance, and 5 it does it and consistent with its risk assessments, 6 7 the evaluations it's done, et cetera. And based on my experience at EPA, EPA would 8 not allow such a -- such a warning or label, statement, that a chemical causes cancer if it -- if 10 the EPA has determined it doesn't cause cancer. 11 12 Q. Okay. Have you ever, in your experience, 13 have you ever seen a company propose a cancer warning to EPA and have EPA reject it? 1.4 15 MR. COPLE: Objection, vague, lacks foundation. 16 17 A. No, but I've never seen any company propose that -- that -- that -- that statement 1.8 19 because, I don't know for sure, but EPA's -- I'm 20 pretty sure that they would know that it's going to 21 be rejected because EPA has requirements for what 22 goes on the label, and it comes from EPA's evaluation 23 of the chemical in question. 24 Q. Sir, Monsanto never took a single step 25 toward even asking EPA if it could put cancer

```
information on the label. Do you agree with that?
 1
                 MR. COPLE: Objection, argumentative,
 2
 3
       asked and answered.
             A. I don't know, because I don't know what's
 4
 5
       in the thinking of EPA, and I was not engaged with
       the glyphosate, but I would be very surprised if they
 6
 7
       did, and I'm -- I feel very, based on my experience
       at EPA, would not allow that to be the case.
 8
             I mean, you can -- based on the fact that EPA
 9
10
       does not favor companies and so forth too, and it
       doesn't want to be worried about product liability
11
12
       and that sort of thing. It's worried about what its
       assessment is. And EPA's assessment of glyphosate,
13
       it is not carcinogenic. If you put -- start
14
15
       willy-nilly putting language on the label, it could
16
       undermine the EPA's requirements on the label because
17
       the label is a licensing. It's the law. You want to
       have information on that label that people believe in
1.8
19
       and know, if they follow it, it's going to result in
20
       safety.
21
             And if you start undermining the fact that
22
       those statements come from EPA's findings, it would
23
       be a real problem. So I can't imagine that EPA would
24
       let a statement go on a label if it wasn't in keeping
25
       with -- with EPA's, you know, conclusions. It
```

- 1 probably -- I can conceivably say it would be
- 2 considered misbranding.
- 3 Q. Have you ever in your experience seen the
- 4 EPA deny a request from a registrant to add enhanced
- 5 safety warnings to its label?
- 6 MR. COPLE: Objection, vague, asked and
- 7 answered.
- 8 A. I can't specifically recall, but I've been
- 9 in meetings where components were -- were discussed
- 10 with the label reviewers and so forth to put stuff in
- and their pushback, et cetera, and they do deny the
- information put on a label, but I don't specifically
- 13 recall. No, I don't -- the answer is no, I don't
- specifically recall being in a meeting where that
- 15 happened.
- Q. So these are all true: to your knowledge,
- Monsanto never asked for a cancer warning or proposed
- one; to your knowledge and experience the EPA has
- never rejected a cancer warning proposed by any
- 20 registrant; and to your knowledge and experience the
- 21 EPA has never rejected a higher safety warning on a
- label that was proposed by a registrant. Are all
- those three true? Yes, no, and then you're welcome
- 24 to explain.
- 25 MR. COPLE: Objection, asked and answered,

1	CERTIFICATE
2	
3	I, LINDA S. KINKADE, Registered Diplomate
4	Reporter, Certified Realtime Reporter, Registered
5	Merit Reporter, Certified Shorthand Reporter, and
6	Notary Public, do hereby certify that prior to the
7	commencement of examination the deponent herein was
8	duly sworn by me to testify truthfully under penalty
9	of perjury.
10	I FURTHER CERTIFY that the foregoing is a true
11	and accurate transcript of the proceedings as
12	reported by me stenographically to the best of my
13	ability.
14	I FURTHER CERTIFY that I am neither counsel
15	for nor related to nor employed by any of the parties
16	to this case and have no interest, financial or
17	otherwise, in its outcome.
18	IN WITNESS WHEREOF, I have hereunto set my
19	hand and affixed my notarial seal this 25th day of
20	February 2018.
21	My commission expires: July 31, 2022
22	
23	
24	NOTARY PUBLIC IN AND FOR
25	THE DISTRICT OF COLUMBIA