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13 **DEWAYNE JOHNSON**

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco
06/13/2018
Clerk of the Court
BY: VANESSA WU
Deputy Clerk

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **COUNTY OF SAN FRANCISCO**

16 Dwayne Johnson

17 Plaintiff,

18 vs.

19 Monsanto Company

20 Defendant

Case No. CGC-16-550128

**PLAINTIFF'S SEPARATE
STATEMENT RE TRIAL TIMES**

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

21 Pursuant to Local Rule 6.8, Plaintiff respectfully submits the following separate
22 statement regarding trial times. This separate statement is warranted because the Parties do not
23 agree on the time needed to try the case.

24 **Total Number of Hours Needed to Try Case**

25 Plaintiff anticipates requiring *at least* sixty-five (65) hours—not including *voir dire*—to
26 try this toxic-tort products case involving a product that has been on the market since the 1970s
27 and its ability to cause cancer. Due to the complexity of this case and long regulatory and
28 scientific record, Plaintiff is strongly opposed to the use of a “chess clock” during trial. The

1 complex nature of this action, involving the examination of nearly a dozen expert witnesses and
2 presentation of complex scientific evidence, militates against the use of such a clock. *See*
3 *Abbott v. Mandiola* (1999) 70 Cal.App.4th 676, 680 fn.5 (“Haste makes waste... A trial, unlike
4 grand master chess or the last two minutes of a close football game, should not become a race
5 against the clock.”). It would be prejudicial to Mr. Johnson to be forced try this case based on
6 guestimates about how long each witness will take. It is difficult to know what Monsanto will
7 focus on in cross, what will be required in re-direct and/or rebuttal. That uncertainty, combined
8 with the litigiousness of the Defendant makes the use of clock misplaced and, needlessly,
9 prejudicial.

10 That said, in accordance with the local rules, Plaintiff, here, provided a “best guess”
11 about the anticipated times required for each aspect of the trial. Here is an overview:

12	<i>Voir Dire</i>	4-5 days
13	Opening Statement	1.5 hours
14	Live Witnesses (direct & rebuttal)	27 hours
15	Video Depositions	14 hours
16	Cross Examinations.....	20 hours
17	Closing (with rebuttal)	2.5 hours
18		Total..... 65 hours

19 **(i) *Voir Dire***

20 Plaintiff anticipates *voir dire* lasting at least 4-5 days. Plaintiff has no intention of
21 needlessly stretching out the *voir dire* process. That said, Plaintiffs oppose an arbitrary
22 prespecified time-limit. The Code of Civil Procedure specifically prohibits “an inflexible time
23 limit policy for *voir dire*.” Code Civ. Proc., § 222.5. A pre-specified time limit on *voir dire* is
24 particularly unsuitable given the complex nature of this action and controversial reputation of
25 the Defendant. This is further compounded by this trial taking place during the summer and
26 requiring several weeks—likely engendering numerous hardship waivers.

27 **(ii) Opening Statement**

1 Plaintiff anticipates requiring one and a half (1.5) hours for Plaintiff's opening
2 statement.

3 **(iii) Plaintiff's Case-In-Chief (No Specific Order)**

4 These are Plaintiff's best guess as to time required for each witness' testimony.
5 Plaintiffs reserve the right to withdraw any witness or portion thereof and, more importantly,
6 extend the time required for any particular witness as the facts and record develop during trial.
7

Witness	Brief Description of Testimony	Hours
Live Witnesses		
Dr. Christopher Portier	Dr. Portier will offer expert testimony that Glyphosate-based herbicides ("GBHs") cause Non-Hodgkin Lymphoma ("NHL") based on the available toxicological, epidemiological, and mechanistic evidence.	3.5
Dr. Alfred Neugut	Dr. Neugut will offer expert testimony that GBHs cause NHL based on the available epidemiological evidence.	2.0
Dr. Charles Benbrook	Dr. Benbrook will offer expert testimony explaining to the jury the regulatory framework at the EPA and how it applies to GBHs.	3.0
Dr. William R. Sawyer	Dr. Sawyer will offer expert testimony that GBHs cause NHL and explain to the jury his opinion that GBHs were a cause of Mr. Johnson's NHL.	2.0
Dr. Chadi Nabhan	Dr. Nabhan will offer expert testimony explaining that Mr. Johnson's exposure to Roundup and Ranger Pro caused Mr. Johnson's NHL. Dr. Nabhan will offer testify regarding the existing body of evidence demonstrating the carcinogenicity of GBHs.	3.0
Dr. Dennis Weisenburger	Dr. Weisenburger will offer expert testimony	2.0

Witness	Brief Description of Testimony	Hours
	explaining that GBHs cause NHL based on the available epidemiological, toxicological and mechanistic evidence.	
Dr. Youn-Hee Kim	Dr. Kim is a physician who treated Plaintiff's injury. Her testimony will include her treatment of Plaintiff.	1.0
Dr. Thach-Giao Truong	Dr. Truong is a physician who treated Plaintiff's injury. Her testimony will include her treatment of Plaintiff.	1.0
James Mills	James Mills is an economist and expert for Plaintiff. He will testify as to Plaintiff's economic damages and will testify as to Monsanto's financial situation for purposes of punitive damages.	1.0
Dwayne Lee Johnson	Mr. Lee Johnson is the Plaintiff in this case and will testify as to his damages and the factual circumstances within his knowledge relevant to this case.	2.0
Araceli Johnson	Araceli Johnson is the Plaintiff's wife and she will testify as to Mr. Johnson's damages and the factual circumstances within his knowledge relevant to this case.	1.0
Alfredo Romero	Mr. Romero was a co-worker of Plaintiff. He will testify as to Mr. Johnson's work history and exposure to GBHs at work.	1.0
Edwin Martinez	Mr. Martinez was a co-worker of Plaintiff. He will testify as to Mr. Johnson's work history and exposure to GBHs at work.	1.0

Witness	Brief Description of Testimony	Hours
Dr. Lauren Zeise	Dr. Zeise is the current Director of California's Office of Environmental Health Hazard Assessment and was a member of the Working Group 112 that evaluated glyphosate at the International Agency for Research on Cancer. She will testify as to her decision to label glyphosate a probable carcinogen and to list glyphosate as known to the state of California to cause cancer under Prop 65.	2.0
Video Depositions¹		
Dr. Aaron Blair	Dr. Blair will testify about his opinion that GBHs cause NHL as well as explain the procedures for the International Agency for Research on Cancer's ("IARC") classification of glyphosate.	2:09
Dr. William Jameson	Dr. Jameson will testify as a fact witness regarding the procedures for IARC's classification of glyphosate.	1:00
Dr. Matthew Ross	Dr. Ross will testify about his opinion that GBHs cause NHL as well his opinion regarding the IARC's classification of glyphosate.	1:38
Dr. Onaopemipo Ofodile	Dr. Ofodile is a physician who treated Plaintiff's injuries. Dr. Ofodile's testimony will include her treatment of Plaintiff and opinion that Plaintiff's injuries were caused by exposure to GBHs.	~1.0
Dr. John Acquavella	Dr. Acquavella was formerly employed by Monsanto. He will testify as to Monsanto's knowledge of the health risks of GBHs and Monsanto's actions or inactions in responding to that risk and informing the public.	2:56
Kirk Azevedo	Kirk Azevedo was formerly employed by	0:45

¹ The video depositions disclosed herein and the allocated times include the designations of both parties. Plaintiff reserves the right to withdraw or modify the designations.

Witness	Brief Description of Testimony	Hours
	Monsanto. He will testify that Monsanto placed profits over safety during his time working as a sales representative.	
Dr. Daniel Goldstein	Dr. Goldstein is a current Monsanto employee. He will testify as to Monsanto's knowledge of the health risks of GBHs and Monsanto's actions or inactions in responding to that risk and informing the public.	2:15
Dr. William Heydens	Dr. Heydens is a current Monsanto employee. He will testify as to Monsanto's knowledge of the health risks of GBHs and Monsanto's actions or inactions in responding to that risk and informing the public.	3:49
Dr. Mark Martens	Mark Martens was formerly employed by Monsanto. He will testify as to Monsanto's knowledge of the health risks of GBHs and Monsanto's actions or inactions in responding to that risk and informing the public.	1:30 ²
Daniel Jenkins	Mr. Jenkins was formerly employed by Monsanto. He will testify as to Monsanto's knowledge of the health risks of GBHs and Monsanto's actions or inactions in responding to that risk and informing the public.	0:42
Dr. David Saltmiras	Dr. Saltmiras is a current Monsanto employee. He will testify as to Monsanto's knowledge of the health risks of GBHs and Monsanto's actions or inactions in responding to that risk and informing the public.	3:51
David Heering	Mr. Heering is a current Monsanto employee. He will testify as to Monsanto's knowledge of the	0:29

² This video designation does not include Monsanto's counter-designations as Monsanto objects to the admission of this witness and refuses provide to counter-designations.

Witness	Brief Description of Testimony	Hours
	health risks of GBHs and Monsanto's actions or inactions in responding to that risk and informing the public.	
Steven Gould	Mr. Gould is a current Monsanto employee. He will testify as to Monsanto's knowledge of the health risks of GBHs and Monsanto's actions or inactions in responding to that risk and informing the public.	0:22
Dr. Donna Farmer	Dr. Farmer is a current Monsanto employee. She will testify as to Monsanto's knowledge of the health risks of GBHs and Monsanto's actions or inactions in responding to that risk and informing the public.	2:49
Jess Rowland	Mr. Rowland is a former employee of the EPA's Office of Pesticide Programs. He will testify regarding Monsanto's collusion with the EPA with respect to the EPA's review of GBHs.	1:30

(iv) Total Hours of Direct Examination

Plaintiff anticipates requiring a total of twenty-seven (27) hours (for live testimony) and fourteen (14) hours for video testimony, which includes those designations by Monsanto.

(v) Cross Examination of Defendant's Witnesses

Plaintiff anticipates requiring a total of twenty (20) hours to cross examine Defendant's witnesses.

(vi) Closing Argument

Plaintiff anticipates requiring a total of two (2) hours for closing argument.

(vii) Rebuttal Argument

Plaintiff anticipates requiring a total of thirty minutes (0:30) hours for rebuttal argument.

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Date: June 13, 2018

Respectfully submitted,
THE MILLER FIRM, LLC

By: /s/ Curtis G. Hoke
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DEWAYNE JOHNSON

1 PROOF OF SERVICE

2 I, Curtis G. Hoke, declare as follows:

3 I am a citizen of the United States and am employed in Orange County, Virginia. I am over the
4 age of eighteen years and not a party to the within action. My business address is 108 Railroad
5 Avenue, Orange, Virginia 22960. On June 13, 2018 _____, I served the following
6 documents by the method indicated below:

7 PLAINTIFF'S SEPARATE STATEMENT RE TRIAL TIMES

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9
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15 **By Electronically Serving** the document(s) described above via LexisNexis File & Serve
16 by 7:00 p.m. Pacific Standard Time on all parties appearing on the LexisNexis File & Serve
17 service list.

18 **SEE ATTACHED SERVICE LIST**

19 I declare under penalty of perjury under the laws of the State of California that the above
20 is true and correct.

21 Executed on this June 13, 2018 at Orange, Virginia.

22 

23
24 Curtis G. Hoke,
25 Declarant

1 *Johnson v. Monsanto Company, et al.*
2 **San Francisco Superior Court Case No.: CGC-16-550128**

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