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12 **DEWAYNE JOHNSON**

ELECTRONICALLY
FILED
*Superior Court of California,
County of San Francisco*
06/12/2018
Clerk of the Court
BY: VANESSA WU
Deputy Clerk

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

DEWAYNE JOHNSON,

Plaintiff,

v.

MONSANTO COMPANY ET AL.,

Defendants.

Case No. CGC-16-550128

**PLAINTIFF'S REPLY IN SUPPORT OF
PLAINTIFF'S MOTION *IN LIMINE* NO. 9
TO EXCLUDE EVIDENCE OF EXPERT'S
FINANCES AND PERSONAL ASSETS
THAT ARE UNRELATED TO LITIGATION
INVOLVING GLYPHOSATE-
CONTAINING HERBICIDES AND NON-
HODGKIN'S LYMPHOMA**

Trial Judge: TBD

Trial Date: June 18, 2018

Time: 9:30 a.m.

Department: TBD

1 **I. ARGUMENT**

2 The Defendant has not shown via their Opposition why specific information as to the expert’s
3 yearly total income or unrelated case specific information is relevant and thus such information should
4 be excluded.

5 Although the Defendant may be allowed to discover what percentage of the expert’s practice
6 involved plaintiff and defense medical examinations and a numerical estimate of the compensation the
7 expert in question received from that work, the Defendant is not entitled to learn the precise details of
8 the expert’s billing and accounting records or exact dollar amounts for the purpose of showing bias.
9 *Allen v. Superior Court*, supra, 151 Cal.App.3d at p. 453, 198 Cal.Rptr. 737.

10 The Defendant cites *Stony Brook I Homeowners Ass'n v. Superior Court*, 84 Cal. App. 4th 691,
11 in an attempt to bolster their argument but their reliance on the case is misplaced in that *Stony Brook*
12 followed the *Allen* standard of percentages and not requiring “exact information” about specific income
13 totals. (“Although an expert must provide such information about his role in prior proceedings as will
14 permit an adversary a meaningful opportunity to demonstrate any bias or prejudice, precise information
15 about the number of cases in which the expert has testified or the amount of compensation the expert has
16 received is not required.”) *Id.* at 693.

17 While *Stony Brook* may support discovery into numerical estimates of defense and plaintiff-
18 related work and a numerical estimate of the amount of income generated from that defense and
19 plaintiff-related litigation, it does not permit unfettered access to an expert’s potential bias. *Id.* at 699.

20 Thus, the Defendant should be limited to evidence of numerical estimates on the amount of
21 income Plaintiff’s expert has generated from defense and plaintiff-related litigation. Plaintiff should not
22 have to give a detailed break down of exact dollar amounts or case specific information for each
23 litigation that he has worked on which is unrelated to the matter at hand.

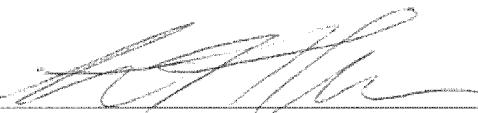
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25 **II. CONCLUSION**

26 Based on the foregoing, Plaintiff Dewayne Johnson respectfully requests that the Court enter an
27 Order granting Plaintiff’s Motion *in Limine* No. 9.

1 DATED: June 12, 2018

Respectfully submitted,

2 **THE MILLER FIRM, LLC**

3
4 By: 

5 Curtis G. Hoke (SBN 282465)
6 Timothy Litzenburg (appearance *pro hac vice*)
7 Michael J. Miller (appearance *pro hac vice*)
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15 *Attorneys for Plaintiff,*
16 *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 12, 2018 _____, I served the following
documents by the method indicated below:

6 PLAINTIFF'S REPLY IN SUPPORT OF PLAINTIFF'S MOTION IN LIMINE NO. 9 TO
7 EXCLUDE EVIDENCE OF EXPERT'S FINANCES AND PERSONAL ASSETS THAT
8 ARE UNRELATED TO LITIGATION INVOLVING GLYPHOSATE-CONTAINING
HERBICIDES AND NON-HODGKIN'S LYMPHOMA

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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
service list.

17 **SEE ATTACHED SERVICE LIST**

18
19 I declare under penalty of perjury under the laws of the State of California that the above
is true and correct.

20
21 Executed on this June 12, 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**

3 **SERVICE LIST**

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28 PROOF OF SERVICE