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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

Defendants.

Case No. CGC-16-550128

**PLAINTIFF'S REPLY BRIEF IN SUPPORT
OF MOTION IN LIMINE 13 TO EXCLUDE
EVIDENCE OF SMOKING, AND DRUG
USAGE**

Trial Date: June 18, 2018

Time: 9:30 a.m.

Department: TBD

1 Defendant's Opposition demonstrates the lack of relevance of the smoking evidence and
2 prejudice Plaintiff will incur if Monsanto is permitted to introduce such information. First, Defendant
3 has put forward no evidence that smoking marijuana is a risk factor for NHL. Thus, there is no
4 relevance to marijuana usage and all references to marijuana should be excluded.

5 Additionally, Defendant's Opposition demonstrates the prejudicial nature in which it seeks to
6 present Mr. Johnson's prior cigar smoking. For example, Defendant's Opposition emphasizes
7 irrelevant aspects of his smoking that will be used to shock a jury such as Mr. Johnson spitting out
8 "green fluid". See, Def. Opposition at 3. Defendant further seeks to have the jury conclude that if he
9 would risk smoking cigars than he would have risked spraying Roundup. See, Def. Opposition at 2.
10 Such a trial within a trial is wasteful of resources and seeks to confuse the jury. Any relevance of Mr.
11 Johnson's smoking history that ended 6 years before he first used Roundup is outweighed by the
12 prejudicial nature which Defendant intends to present the evidence. Thus, Mr. Johnson's smoking
13 history should be excluded in its entirety; Plaintiff respectfully requests that this honorable Court grant
14 Plaintiff's Motion *in Limine* No. 13.

15
16 Dated: June 12, 2018

Respectfully submitted,

17
18 **THE MILLER FIRM, LLC**

19
20 By: /s/ Curtis G. Hoke
Michael J. Miller (appearance *pro hac vice*)
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26 *Attorneys for Plaintiff*
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 BRIEF IN SUPPORT OF MOTION IN LIMINE 13 TO EXCLUDE
7 EVIDENCE OF SMOKING, AND DRUG USAGE
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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
26
27

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