

1 Sandra A. Edwards (State Bar No. 154578)
Joshua W. Malone (State Bar No. 301836)
2 Farella Braun + Martel LLP
235 Montgomery Street, 17th Floor
3 San Francisco, CA 94104
Telephone: (415) 954-4400; Fax: (415) 954-4480
4 sedwards@fbm.com
jmalone@fbm.co
5 Joe G. Hollingsworth (appearance *pro hac vice*)
Kirby T. Griffis (appearance *pro hac vice*)
6 Eric G. Lasker (appearance *pro hac vice*)
William J. Cople (appearance *pro hac vice*)
7 Hollingsworth LLP
1350 I Street, N.W.
8 Washington, DC 20005
Telephone: (202) 898-5800; Fax: (202) 682-1639
9 jhollingsworth@hollingsworthllp.com
kgriffis@hollingsworthllp.com
10 elasker@hollingsworthllp.com
wcople@hollingsworthllp.com
11
George C. Lombardi (appearance *pro hac vice*)
12 James M. Hilmert (appearance *pro hac vice*)
Winston & Strawn LLP
13 35 West Wacker Drive
Chicago, IL 60601
14 Telephone: (312) 558-5969; Fax: (312) 558-5700
glombard@winston.com
15 jhilmert@winston.com

16 *Attorneys for Defendant*
MONSANTO COMPANY

18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
19 **COUNTY OF SAN FRANCISCO**

21 DEWAYNE JOHNSON,
22 Plaintiff,
23 vs.
24 MONSANTO COMPANY,
25 Defendant.

Case No. CGC-16-550128

**DEFENDANT MONSANTO COMPANY'S
OPPOSITION TO KPIX-TV'S
APPLICATION FOR CAMERA
COVERAGE**

Honorable Judge Suzanne R. Bolanos
Department: 504

ELECTRONICALLY
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*Superior Court of California,
County of San Francisco*
06/20/2018
Clerk of the Court
BY: KALENE APOLONIO
Deputy Clerk

1 Defendant Monsanto Company (“Monsanto”) is in receipt of the Letter to this Court
2 dated June 19, 2018 (and received late last night) from CBS Television/KPIX-TV News
3 requesting the right to broadcast the trial in this matter. Monsanto opposes the request under
4 CRC 1.150 – and all similar video broadcast requests from other media outlets – for a number of
5 reasons.

6 First, CBS/KPIX claims that it “timely filed an application for camera coverage and the
7 Court granted” its application on June 18, 2018. CBS/KPIX now uses that Order to ask this Court
8 not “to overrule” its prior Order. A quick glance at the referenced application, however, reveals
9 that the application submitted to Judge Teri Jackson on Monday (in violation of the notice
10 requirements of CRC 1.150) specified that it was limited to a single “hearing” in front of Judge
11 Jackson on June 18, 2018, and did not even seek an order to televise the entire trial in the matter.
12 So that Application and Order have no bearing on the issue before this Court.

13 Second, the application of CVN to broadcast the trial promised that it would be protected
14 by a “paywall” – limited to those who paid for a subscription – and would primarily serve
15 “educational” purposes. Regardless of that claimed intent, it has now become obvious that any
16 such broadcast by CVN and now other local and national television stations would be immediately
17 (and perhaps simultaneously) shown widely throughout the Bay Area and across the country.
18 Over the last few days, numerous news stories, both in print and digital media and on television
19 stations, have already inundated readers and viewers with stories (some quite sensationalistic)
20 about the trial. At this point, the Court must simply and completely disregard any thought of
21 “limited, educational use” of trial recordings.

22 Third, the real and significant concerns of the safety of Monsanto employees, former
23 employees, witnesses and counsel, highlighted in Monsanto’s prior Opposition to CVN’s request,
24 are further magnified by the specter of non-stop coverage and sensationalism of this trial.
25 Similarly, there is a live risk that multiple cameras in the courtroom will intimidate witnesses and
26 make them less likely to testify truthfully. *See* CRC 1.150(e)(3)(K)(“The effect of coverage on the
27 willingness of witnesses to cooperate”).

28 Fourth, and most importantly, while there is obviously the right of the public to know what

1 goes on in our courts, that interest is already protected by the print journalists who have already
2 covered Day 1 of this trial and will continue to do so. There is no constitutional “right to know”
3 issue here. Moreover, any such right must be carefully balanced against Monsanto’s absolute
4 right to a fair trial, and that real interest is clearly at risk here.

5 We have already seen news coverage of the trial shown on local and national television
6 and internet broadcasts, with the promise of more, and with the additional broadcast coverage
7 comes further and increased risk of contaminating both the current jury pool, any jury that is
8 eventually seated, and the potential jury pools. With non-stop coverage of the trial, jurors in this
9 case will find it difficult, if not impossible, to avoid seeing and hearing about the trial, and hearing
10 about the case from family and friends. *See* CRC 1.150(e)(3)(M) (“The effect on the parties’
11 ability to select a fair and unbiased jury”).

12 Incredibly (and improperly), Plaintiff’s counsel has already sought to fan the flames with
13 incendiary comments about the trial and about Monsanto, and live broadcast coverage will further
14 risk having these comments, including comments about evidence that will never be admitted,
15 reaching jurors in this case. *See* Declaration of Sandra A. Edwards ¶ 2, Ex. 1 (Gillam, “Man vs.
16 Monsanto: First Trial Over Roundup Cancer Claims Set to Begin,” available at
17 <https://www.ecowatch.com/johnson-monsanto-trial-2579431928.html>) (“‘We’re going to get them
18 here. We have the goods,’ said Brent Wisner, who is one of three attorneys representing Johnson
19 at trial. ‘If the evidence we have is allowed in, Monsanto is in trouble.’”). These type of
20 comments by Plaintiff’s counsel, clearly intended to reach current and prospective jurors, must be
21 stopped now. The media circus that is developing in this case reaches levels that again put
22 Monsanto’s right to a fair trial at immediate and substantial risk.

23 Finally, allowing television coverage risks undermining Judge Curtis Karnow’s Order that
24 evidence of the number of lawsuits involving Monsanto is inadmissible. *See* 4/3/2018 Order on
25 Motions *in Limine*. The increased coverage will no doubt make this case seem all that more
26 important to our jury, encouraging jurors to do their own research to see what’s so important
27 (despite any instruction from the Court precluding them from doing so). Further, it risks the jury
28 coming to their own conclusions about Monsanto based only on the sheer number of reporters and

1 cameras in the courtroom.

2 For all these reasons, the risks of an unfair trial to Monsanto substantially outweigh the
3 interests of the television networks to show coverage of the trial. The requests to use video or live
4 coverage of the trial should be denied.

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6 Dated: June 20, 2018

Respectfully submitted,

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FARELLA BRAUN + MARTEL LLP

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By: 

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Sandra A. Edwards

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Attorneys for Defendant
MONSANTO COMPANY

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