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12 *DEWAYNE JOHNSON*

ELECTRONICALLY  
**FILED**  
*Superior Court of California,  
County of San Francisco*  
**06/25/2018**  
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 OBJECTION TO  
MONSANTO COMPANY'S CURATIVE  
INSTRUCTION NO. 1**

Hon. Judge Suzanne R. Bolanos

Department: 504

Trial Date: June 18, 2018

1 Plaintiff hereby objects to Monsanto Company's request that the court read a curative  
2 instruction to the jury prior to opening statements. Plaintiff submits that a curative instruction is  
3 unnecessary, appropriately handled in the Court's preliminary instructions, and would likely confuse  
4 the jury. Furthermore, Monsanto's proposed instruction is highly prejudicial and would  
5 inappropriately paint Plaintiff's counsel in a negative light prior to the beginning of trial.

6 In the alternative, if the Court is inclined to read a curative instruction to the jury, Plaintiff  
7 would propose the following based on CACI 100 and CACI 106;

8 **Proposed Curative Instruction No. 1**

9 During mini-opening statements, counsel made references to laws that will govern in  
10 this case. What the attorneys say during their opening statements is not evidence. What the  
11 lawyers say may help you understand the law and the evidence, but their statements and  
12 arguments are not evidence. I will explain the law that you must follow to reach your verdict.  
13 You must follow the law as I explain it to you, even if you do not agree with the law.

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15  
16 DATED: June 25, 2018

Respectfully submitted,

17 By: /s/ Curtis G. Hoke

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Curtis G. Hoke (SBN 282465)  
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22 Attorneys for Plaintiff,  
23 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 25, 2018 \_\_\_\_\_, I served the following  
6 documents by the method indicated below:

7 **PLAINTIFF'S OBJECTION TO MONSANTO COMPANY'S CURATIVE  
8 INSTRUCTION NO. 1**

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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 25, 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 Sandra A. Edwards, Esq. Joshua W. Malone, Esq. <b>Farella Braun + Martel LLP</b> 235 Montgomery Street, 17 <sup>th</sup> Floor San Francisco, California 94104 Tel: (415) 95404400 Fax: (415) 954-4480 sedwards@fbm.com jmalone@fbm.com	Counsel for Defendant  Served electronically via Lexis Nexis File&Serve Xpress

28 PROOF OF SERVICE