

**WILKINSON WALSH + ESKOVITZ LLP**

Brian L. Stekloff (*pro hac vice*)  
(bstekloff@wilkinsonwalsh.com)  
Tamarra Matthews Johnson (*pro hac vice*)  
(tmatthewsjohnson@wilkinsonwalsh.com)  
Rakesh Kilaru (*pro hac vice*)  
(rkilaru@wilkinsonwalsh.com)  
2001 M St. NW, 10<sup>th</sup> Floor  
Washington, DC 20036  
Tel: (202) 847-4030  
Fax: (202) 847-4005

**ARNOLD & PORTER KAYE SCHOLER  
LLP**

Pamela Yates (CA Bar No. 137440)  
(Pamela.Yates@arnoldporter.com)  
777 South Figueroa St., 44th Floor  
Los Angeles, CA 90017  
Tel: (213) 243-4178  
Fax: (213) 243-4199

**HOLLINGSWORTH LLP**

Eric G. Lasker (*pro hac vice*)  
(elasker@hollingsworthllp.com)  
1350 I St. NW  
Washington, DC 20005  
Tel: (202) 898-5843  
Fax: (202) 682-1639

**COVINGTON & BURLING LLP**

Michael X. Imbroscio (*pro hac vice*)  
(mimbroscio@cov.com)  
One City Center  
850 10th St. NW  
Washington, DC 20001  
Tel: (202) 662-6000

*Attorneys for Defendant  
MONSANTO COMPANY*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN RE: ROUNDUP PRODUCTS  
LIABILITY LITIGATION

) MDL No. 2741  
)  
) Case No. 3:16-md-02741-VC  
)

\_\_\_\_\_  
This document relates to:

*Hardeman v. Monsanto Co., et al.,*  
3:16-cv-0525-VC

) **MONSANTO COMPANY'S MOTION**  
) **TO SUPPLEMENT THE RECORD IN**  
) **CONNECTION WITH ITS MOTIONS**  
) **FOR JUDGMENT AS A MATTER OF**  
) **LAW OR, IN THE ALTERNATIVE, FOR**  
) **A NEW TRIAL**



1 this letter in resolving its legal arguments in favor of judgment notwithstanding the verdict and  
2 a new trial, including its challenges to the damages awards addressed in Juror #5's letter. But,  
3 despite the soundness of that position, Monsanto respectfully submits that the Court should add  
4 this letter to the record in this case for two reasons.

5 *First*, Juror #5 is the same juror who brought to the Courtroom Deputy's attention the  
6 allegedly improper comments made by Juror #4 that ultimately resulted in Juror #4's excusal,  
7 which Monsanto challenges in its post-trial motion. As Monsanto has previously noted, Juror #5  
8 stated, on her initial juror questionnaire, that she was "potentially" entering the trial with  
9 preconceived feelings about Monsanto, *see* Trial Tr. vol. 2, 241:17-21; raised her hand during  
10 voir dire in response to a question from Plaintiff's counsel regarding whether anyone had an  
11 "issue that they don't think they can set those opinions aside and be fair in this case," *id.* 214:13-  
12 17; and was challenged for cause by Monsanto following voir dire, *see id.* 271:5-18. Juror #5's  
13 post-trial actions further underscore her potential for bias, the necessity for the Court to have  
14 conducted an investigation to verify her allegations about another juror, and the serious risk that  
15 Monsanto was deprived of its right to a fair trial.

16 *Second*, there have now been two hearings on post-trial motions challenging verdicts  
17 against Monsanto in connection with Roundup's alleged carcinogenicity. In the *Johnson* case,  
18 Judge Bolanos issued a tentative ruling granting judgment notwithstanding the verdict and a  
19 new trial to Monsanto on punitive damages, and then conducted a hearing on Monsanto's  
20 motions. Several jurors attended that hearing and then wrote highly publicized letters and emails  
21 to Judge Bolanos urging her to keep the verdict in place. A similar pattern of events has  
22 transpired here: At the July 2 hearing, the Court suggested it may remit part of the jury's verdict,  
23 and the juror who attended that hearing submitted a letter urging otherwise. The fact that jurors  
24 from both trials wrote letters in support of constitutionally impermissible verdicts is highly  
25 unusual, and generates further anti-Monsanto bias in the Bay Area that will infect future  
26 Roundup trials.



850 10th St. NW  
Washington, DC 20001  
Tel: (202) 662-6000

*Attorneys for Defendant*  
*MONSANTO COMPANY*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 8<sup>th</sup> day of July 2019, a copy of the foregoing was filed with the Clerk of the Court through the CM/ECF system which sent notice of the filing to all appearing parties of record.

/s/ Brian L. Stekloff

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28