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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: ROUNDUP PRODUCTS LIABILITY LITIGATION THIS DOCUMENT RELATES TO: ALL ACTIONS	MDL No. 2741 **OPPOSITION TO MONSANTO COMPANY'S APPLICATION FOR EMERGENCY RELIEF**

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INTRODUCTON

Monsanto defends this case, in part, based on the action (or inaction) of regulatory bodies. As of July 7, 2017, glyphosate is listed on California's Prop 65 list, meaning glyphosate is a chemical known by California to cause cancer. Monsanto, in response, has sought to attempt to obtain "safe harbor" status, which would alleviate the need for sellers of Roundup to provide a cancer warning adjacent to the product. The Office of Environmental Health Hazard Assessment (OEHHA) is charged with determining the safe harbor status; through a FOIA request, Plaintiffs learned that Monsanto met *privately* with OEHAA on October 7, 2015 to provide OEHHA self-serving documents to support a "safe harbor" determination.

On May 8, 2017, on behalf of MDL Plaintiffs, several MDL counsel requested that OEHAA hold a public hearing on glyphosate's safe harbor status. That same day, undersigned counsel sent Monsanto a request to declassify 42 documents—none of which contained confidential information—so they could be given to OEHAA as part of its safe harbor determination for glyphoste. *See* Exh. B, Letter from Aimee Wagstaff at 1 (May 8, 2017). The letter specified both the documents' relevance to the MDL and the urgency of the request. Monsanto ignored the letter, despite two follow up emails. Yet, on June 20, 2017, Monsanto submitted Dr. Blair's deposition transcript and select exhibits to OEHAA, arguing that his testimony discredited IARC's glyphosate determination and requesting that OEHHA not list glyphosate as a known carcinogen.[1] Thus, OEHAA only received the MDL discovery information Monsanto wanted it to see by ignoring Plaintiffs' valid requests to release documents.

Because the May 8 challenge did not contain the triggering language of paragraph 16.2 of the Protective Order (Dec. 9, 2016, Dkt. 64) ("PO"), on June 30, Plaintiffs re-challenged those same 42 documents, and others, invoking PO paragraph 16.2.

The MDL's PO, *stipulated to* by the parties and entered by the Court, outlines the procedural rules for the parties in the event a meet-and-confer fails to resolve the confidentiality dispute.

[1] *See* Exh. D, Letter from Phillip W. Miller, Vice President of Global Affairs, Monsanto Company to Carol Monahan-Cummings, Chief Counsel of OEHHA, at 1-4 (June 20, 2017).

Specifically, the Designating Party "***shall*** file and serve a motion to retain confidentiality…***within 30 days***…[f]ailure by the Designating Party to make such a motion…***shall automatically waive*** the confidentiality designation for each challenged designation." PO ¶ 16.3 (emphasis added).[2] Neither Pretrial Orders (PTOs) Nos. 15 nor 20 modifies that procedure—in fact, PTO No. 20 specifically directs Plaintiffs to utilize Section 16.2 of the PO. At most, those PTOs amend the standard by which this Court would consider confidentiality challenges *after* a motion is filed.

It is *undisputed* that (1) on June 30, 2017, Plaintiffs sent a detailed, 30-page letter, providing specific confidentiality challenges to 86 documents that also identified the relevancy of each document to this litigation; (2) on July 13, 2017, the parties met-and-conferred, wherein Monsanto refused to explain each document's "confidential" designation, and refused to confer with Plaintiffs' counsel; (3) between June 30, 2017 and July 31, 2017, Monsanto failed to seek continued protection of the challenged documents or request additional time to prepare such a motion; and (4) because Monsanto failed to file any motion to retain confidentiality of the challenged documents by midnight on July 31, 2017, under the terms of the PO, Monsanto "automatically waive[d] the confidentiality designation for each challenged designation."

The PO is unambiguous. Notwithstanding, Monsanto asks this Court to impose a litany of harsh sanctions against Plaintiffs' counsel for considering Monsanto to have waived confidentiality over these documents. In other words, Monsanto asks this Court to impose sanctions against Plaintiffs' counsel for *following* the PO's procedures and causing no identified harm. The fact is that Monsanto made a mistake by failing to take required action to preserve the confidentiality of these documents. Instead of accepting responsibility for its mistake, Monsanto takes aim directly at Plaintiffs' counsel, making a host of unsupportable accusations, innuendo, and personal attacks. And in the midst of these outbursts, Monsanto's fails to even articulate any Rule or statute that provides a basis for their application and highly unorthodox sanctions.

[2] *See* Model Stipulated Protective Order for Standard Litigation at ¶ 6.3, *available at* http://www.cand.uscourts.gov/filelibrary/407/ CAND_StandardProtOrd.pdf. It is the standard procedure in this Court.

Notably, Monsanto does not even discuss or mention section 16.3 of the PO, or explain how PTOs 15 and 20 amend the PO so as to no longer require Monsanto to file a motion seeking continued confidentiality of challenged documents. Instead, the application contains *ad hominem* attacks on Plaintiffs' counsel. It would be fundamentally improper to punish Plaintiffs' counsel for exercising their First Amendment right to talk about non-confidential material, especially given that Monsanto has been actively involved in providing deposition segments that it decides to "de-designate" when it suits its message, and sharing those cherry-picked documents with the press to malign witnesses in this case. Monsanto has gone so far as to publicly and baselessly accuse Dr. Blair, a well-respected and neutral scientist who graciously agreed to be deposed in this case, of committing "scientific vandalism," and post that on its website.[3] The First Amendment should apply equally to the Plaintiffs.

Counsel is mindful that this Court has expressed disagreement with what it perceives as attempts to attach documents to court filings to cause the documents to become publicly available. What happened here, however, is different. Plaintiffs did not attempt an end-around the procedures outlined by the Court. In fact, Plaintiffs applied those procedures, to the letter. The fact that Monsanto failed to take measures to maintain confidentiality of the documents, as the Protective Order requires, lies with Monsanto alone. Monsanto's request for sanctions should be denied in full.

BACKGROUND

I. Procedure for Correcting Over-Designation of Documents

The Court entered the PO on December 9, 2016 (Dkt. 64). In it, the parties stipulated "that this Order ***does not confer blanket protections on all disclosures or responses to discovery*** and that the protection it affords from public disclosure and use ***extends only*** to the information or items that are ***entitled*** to confidential treatment under the applicable legal principles." PO ¶ 2 (Dec. 9, 2016, Dkt. 64) (emphasis added). Recognizing the importance of expediting discovery, the parties agreed that "[i]f it comes to the designating party's attention that information or items that it designated for

[3] *See* https://www.hollingsworthllp.com/news/monsanto-cancer-study-suppression-is-scientific-vandalism.

protection do not qualify for protection, that designating party ***must*** promptly notify all other Parties that it is withdrawing its mistaken designation." *Id.* ¶ 5 (emphasis added). By the express terms of the PO, each side is charged with an affirmative duty to correct over-designations promptly.

Paragraphs 16.2 and 16.3 outline the process for challenging the confidentiality of documents. It starts with the challenging party issuing a letter specifying "each designation it is challenging and describing the basis for each challenge." *Id.* ¶ 16.2. Once that letter is issued, the parties "shall attempt to resolve each challenge in good faith . . . by conferring directly . . . within 14 days[.]" *Id.* During that meet-and-confer, the challenging party must explain its basis for challenging the designation, while the designating party shall review the challenged materials and offer a justification for the designation. *Id.* If the parties reach an impasse, then the designating party must file a motion to maintain confidentiality within 30 days of the initial notice or else "automatically waive the confidentiality designation for each challenged designation." *Id.* ¶ 16.3. Importantly, "[t]he burden of persuasion in any such challenge proceeding shall be on the Designating Party[.]" *Id.*

II. Consistent with the Procedure for Challenging Confidentiality, Plaintiffs Identified 86 Documents Improperly Designated "Confidential" and Relevant to this Litigation

On June 30, 2017, Plaintiffs sent a letter, pursuant to Section 16.2, challenging Monsanto's confidentiality designations of 86 documents.[4] Attached to the letter was a 28-page chart, listing each document, summarizing the relevant portions, and explaining why the specific document ***was relevant***. *Id.* at 3-30. Plaintiffs stressed:

> As you know, in the Court's Pre-Trial Order 20, the Court stated that "[i]n this phase of the MDL, ***the proper remedy for overdesignation is to correct the discrete instances of overdesignation that require correction*** given the needs of the litigation" and instructed the Parties to comply with the meet-and-confer process outlined in Section 16.2 of the Protective Order. . . . [T]his letter and the requested meet-and-confer is ***your chance to address a discrete set of documents, identified in the attached chart, and correct Monsanto's overdesignations.***

Id. (emphasis added). Monsanto agreed to meet-and-confer on July 13, 2017.

III. Monsanto Refuses to Engage in A Meaningful Meet-and-Confer

The parties met by phone on July 13, 2017. Monsanto refused to discuss any document or

[4] Exh. A, Letter from R. Brent Wisner to Joe Hollingsworth et al at 1-2 (June 30, 2017).

explain why any document was properly designated confidential. Instead, Monsanto stated it was not required to review these documents because there was no "litigation need" and that reviewing the 86 documents for confidentiality would be too burdensome. Plaintiffs disagreed. Monsanto also stated that it reviewed the 86 documents to determine if any of them were cited in Plaintiffs' expert reports (but not to determine if they contained confidential information). Since none were cited in the expert reports, Monsanto claimed the documents did not warrant de-designation. When pressed about what Monsanto thought qualified as a legitimate "litigation need," Monsanto refused to answer. Plaintiffs inquired whether Monsanto could put aside the issue of "litigation need," and at least discuss whether the original confidentiality designations for the 86 documents were appropriate. Monsanto refused, telling Plaintiffs' counsel to, literally, "go away." On July 27, 2017, Mr. Wisner emailed Monsanto informing them that Plaintiffs did not intend to file a join discovery letter with the Court concerning the challenged confidentiality designations, signaling to Monsanto that it was under the clock to take action.

IV. Monsanto Waived Any Claim to Confidentiality Pursuant to Section 16.3 of the PO

Pursuant to Section 16.3 of the PO, Monsanto was required to file a motion seeking continued protection of those documents challenged by July 31, 2017 or else "automatically waive the confidentiality designation for each challenged designation." *Id.* ¶ 16.3. Monsanto did not file a motion, nor did it seek an extension of time. Thus, pursuant to the Court's Protective Order, the documents were automatically declassified after 30 days.

V. Counsel, R. Brent Wisner, Sends the Declassified Documents to Regulatory Agencies and Provides access to the Documents through Baum Hedlund's Website[5]

[5] Co-lead counsel authorized Baum Hedlund to proceed with the process of de-designating documents pursuant to the Protective Order but ***did not*** appoint, authorize, or direct the posting of the documents on Baum Hedlund's website or anywhere else. The decision to make the documents publicly available was made by Baum Hedlund, not the MDL Leadership. That said, the law in the Ninth Circuit is very clear—nothing prevents a litigant or attorney from discussing or distributing non-confidential material with the public, especially since none of the documents contain any confidential information and Monsanto clearly waived any assertion of confidentiality by failing to take action to keep the documents confidential. *See, e.g.*, *Humboldt Baykeeper*, 244 F.R.D. at 562 (holding that non-confidential documents cannot be kept secret simply because of the "the proponent's (or the court's) desire simply to keep the discovered information out of public view or inaccessible to the authorities.").

As a preliminary matter, there is a litigation need for each of the 86 documents at issue, and plaintiffs painstakingly outlined that in the letter that began the de-designation process. The litigation need is legitimate and timely: Monsanto routinely argues before this Court (and in the press) that glyphosate is safe, in large part, because regulatory agencies such as the EPA and the European Union have not banned Roundup. Monsanto has not provided the 86 documents to these regulatory agencies, yet they go the heart of the scientific debate about data underlying Roundup's safety.

Further, there is substantial public interest in the proceedings of this litigation—illustrated most recently by the letter to the Court from members of the European Parliament earlier this month. *See* Dkt. 385. For example, there are ongoing investigations by EPA's Office of Inspector General into potential collusion between Monsanto and EPA officials.[6] As stated above, OEHHA recently listed glyphosate as a substance known to cause cancer and is presently considering whether to implement a safe harbor level for glyphosate exposure. Because Baum Hedlund had been contacted by these regulatory entities to provide documents, the firm waited for the 30-day waiver period to expire before sharing the documents with each of the above named agencies.

The day before Baum Hedlund posted the documents, Mr. Wisner spoke with Carey Gillam as part of an already-scheduled meeting for the two to discuss her anticipated testimony before the European Parliament scheduled for October 2017. While Mr. Wisner told Ms. Gillam that certain documents might be de-designated in the next 24 hours, he did not share documents with her nor did he discuss the contents of any documents, prior to de-designation.

VI. Shortly After PTO 20 Was Issued, Monsanto Selectively Gave Deposition Testimony to the Press

Monsanto's request for sanctions is ironic in light of its recent media disclosures. Monsanto gave portions of the deposition of Dr. Blair, the Chair of the IARC working group that evaluated glyphosate, to numerous news organizations including Reuters.[7] Sharing the deposition testimony of

[6] Exh. C, Letter from Arthur A. Elkins, Jr. to Hon. Ted Lieu (May 31, 2017).

[7] *See* Kate Kelland, *Cancer agency left in the dark over glyphosate evidence*, Reuters (June 14, 2017) *available at* https://www.reuters.com/investigates/ special-report/glyphosate-cancer-data/ ("Previously unreported court documents reviewed by Reuter . . . In a sworn deposition given in March this year in connection with the case . . .").

Dr. Blair was the first time in this case where discovery material, unfiled on the public docket, was given to a reporter to support a story line. By dictating which testimony sees the light of day, Monsanto uses unfiled litigation material to influence the media for its own gain.

ARGUMENT

I. Law Concerning Public Disclosure of Discovery Material

Monsanto's real dispute with Plaintiffs is not that Plaintiffs deems Monsanto to have waived the designations; rather, it is that the documents were posted on a firm website. There is no prohibition to posting non-classified information on a firm website; Monsanto does it routinely. Monsanto cites no law about the public nature of discovery material. The public is permitted "access to litigation documents and information ***produced during discovery.***" *Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1210 (9th Cir. 2002) (emphasis added). "It is well-established that the fruits of ***pretrial discovery*** are, in the absence of a court order to the contrary, presumptively public." *San Jose Mercury News, Inc. v. U.S. Dist. Court*, 187 F.3d 1096, 1103 (9th Cir. 1999) (emphasis added). The only way a Court may limit pretrial discovery from public disclosure is pursuant to Rule 26, which permits the Court "for good cause, [to] issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense." Fed. R. Civ. P. 26; *see In re Halkin*, 598 F.2d 176, 188 (D.C. Cir. 1979) ("[M]aterials obtained in discovery may be used by a party for any purpose, including dissemination to the public."). A protective order, permitting any party to unilaterally designate documents confidential, coupled with a procedure for seeking de-designation, does not meet the "good cause" requirements of Rule 26. *See Beckman Indus., Inc. v. Int'l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992). Once plaintiffs challenged the documents, Monsanto was legally obligated to make an actual showing of good cause to preserve confidentiality. *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1131 (9th Cir. 2003):

> Rule 26(c) gives some precedence to one particular value: ***freedom to use discovered information in any lawful manner that the discovering party chooses.*** That precedence is reflected in the Rule's demand that trial courts not issue protective orders unless the proponent of the order first makes a showing of good cause. ***Without such a showing, no such order can issue.***

Humboldt Baykeeper v. Union Pac. R. Co., 244 F.R.D. 560, 562 (N.D. Cal. 2007) (emphasis added).

It failed to do so.[8]

II. Monsanto's Application Is Procedurally Flawed

As an initial matter, Monsanto's application is procedurally flawed because it does not specify the Rule or authority under which it seeks to impose sanctions. Further, the three cases cited relate to a different issue. Different standards apply to different requests for sanctions, both from a legal and procedural standpoint. Without a clear explanation of the legal basis for imposing these extreme sanctions, Plaintiffs cannot meaningfully address the merits of the requested relief.[9]

III. PTOs 15 and 20 Do Not Relieve Monsanto of Section 16.3 Requirements

Under Section 16.3, Monsanto automatically waived confidentiality of the 86 challenged documents by failing to file a motion within 30 days. Remarkably, Monsanto never discusses this language in its application. Instead, it quotes excerpts from Case Management Conferences (CMCs), in an attempt to support its argument that section 16.3 was somehow modified. But there is, of course, no order, or statement from the Court nullifying or superseding paragraph 16.3 of the PO.

Monsanto relies on the Court's statement, at the February 27, 2017 Hearing, that unless Plaintiffs "have understanding of how a document is likely to be used in litigation, I think you need to leave Monsanto alone regarding its confidentiality designations." Feb. 27, 2017 Hr'g Tr. at 57:24-58:1. The Court specifically refused to modify the PO but asked the Parties to "operate under that

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[8] There are also important First Amendment considerations at play here: "The inherent value of speech in terms of its capacity for informing the public does not turn on how or where the information was acquired." *In re Halkin*, 598 F.2d at 187 (citing *First National Bank of Boston v. Bellotti*, 435 U.S. 765, 778-783 (1978)). "A party's right to disseminate information is far stronger for discovery materials than for information that has been stolen or obtained in breach of contract." *Id.* And even though some Courts apply relaxed First Amendment scrutiny to restrictions on litigant speech, "the Supreme Court has noted that parties have general [F]irst [A]mendment freedoms with regard to information gained through discovery and that, absent a valid court order to the contrary, they are entitled to disseminate the information as they see fit." *Pub. Citizen v. Liggett Grp.*, Inc., 858 F.2d 775, 780 (1st Cir. 1988) (citation omitted); *see San Jose Mercury News*, 187 F.3d at 1101 (citing *Pub. Citizen* with approval); *Beckman*, 966 F.2d at 476 (same); *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 31-36 (1984) ("[I]nformation obtained through civil discovery . . . would rarely, if ever, fall within the classes of unprotected speech identified by decisions of this Court[.]").

[9] Moreover, the motion is styled as an Application for Emergency Relief, typically reserved for temporary restraining orders. *See* Standing Order for Civil Cases before Judge Vince Chhabria at ¶¶ 2-4. The application does not state the elements required for such relief. *Teespring, Inc. v. Puetz*, No. 15-CV-04149-VC, 2017 WL 956633, at *3 (N.D. Cal. Mar. 13, 2017) (J. Chhabria) (quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)). This defect is fatal to Monsanto's motion.

understanding." *Id.* at 58:6-8. In its written order, the Court stated, "As explained at the hearing, the Court will not entertain any challenge by the plaintiffs to a confidentiality designation unless they can explain why the document is likely to be relevant in the litigation." PTO 15 at 5. Thus, Plaintiffs provided Monsanto with a 30-page letter detailing why they believe the 86 documents would likely be used in litigation, but Monsanto refused to discuss these issues.

In a separate motion, filed August 2, 2017, Plaintiffs explain why this "requirement" violates Rule 26(c) and the First Amendment and requests clarification of the Court's order. However, despite Plaintiffs' disagreement with PTO No. 15, Plaintiffs complied with it.[10] *See* Exh. A, 3-30 (column "Relevance"). The descriptions express Plaintiffs' "understanding of how a document is likely to be used in litigation," in accordance with PTO 15.[11] Monsanto was obligated to take action to protect the documents' confidentiality. When it didn't take action, Monsanto waived confidentiality.

IV. Plaintiffs' Are Not Litigating this Case in the Media

Monsanto spends most of its application accusing Plaintiffs of trying this case in the media. Indeed, Monsanto boldly claims that Plaintiffs "once again are seeking to try their case in the press through out-of-context disclosures of documents and misleading spin." App. at 2. There are, however, two problems with this attack. First, it is simply not accurate. Baum Hedlund made the 86 documents publicly available. Any media that resulted was not coordinated or prompted by Plaintiffs or Baum Hedlund. There have been no press releases, press conferences, or media briefings.[12]

[10] Monsanto claims that this motion is an after-the-fact attempt to justify public disclosure of the documents. To the contrary, the motion seeks to clarify or modify PTOs15 & 20 to the extent they impose invalid or unconstitutional requirements for challenging the confidentiality of documents in court. As the motion explains, this motion is still needed because Plaintiffs should not have to rely on Monsanto waiving confidentiality before it can get documents de-designated." Dkt. 415 at 7-8.

[11] Monsanto argues that 24 of the 86 documents being challenged "this Court expressly refused to de-designate in response to an earlier plaintiffs' challenge." App. at 1. This is misleading. In PTO 15, the Court rejected the wholesale de-designation of 200 documents, explaining that Plaintiffs first needed to determine and explain which documents were relevant to the litigation. PTO 15 at 5. The Court, however, never reviewed those 200 documents, nor did it make a substantive or "express" determination about their content. Of those 200 documents, 24 were resubmitted with this recent challenge, with the accompanying explanations of relevance. Monsanto's claim that this Court already refused to de-designate 24 of 86 of these documents is inaccurate.

[12] The descriptions of the documents on the website are verbatim from the letter sent to Monsanto on June 30, 2017.

Indeed, there have only been a handful of articles written by the media about these document, as listed in Mr. Rubin's declaration. There is no "media campaign" at play, other than Monsanto's bald claims to the contrary.

What is more, these documents are no-longer protected. There was nothing in them to warrant confidentiality to begin with and any confidentiality that may have existed was automatically waived. Plaintiffs have common law and constitutional rights to freely discuss non-confidential material with the public, especially since the only "harm" thus far identified by Monsanto appears to be embarrassment. This Court, however, is not permitted to restrict otherwise valid free speech simply because one party does not like what is being said. *Chase v. Robson*, 435 F.2d 1059, 1061 (7th Cir. 1970) ("Even in the presence of sufficient justification for curtailing certain first amendment utterances, an order must be drawn narrowly so as not to prohibit speech which will not have an effect on the fair administration of justice along with speech which will have such an effect."). At this point, unless Monsanto articulates a valid reason for this Court to suppress otherwise protected speech, making declassified documents available to the public has nothing to do with the proceedings in this Court. *Humboldt Baykeeper*, 244 F.R.D. at 562 ("The proponent of the order must demonstrate that the order would reduce a real risk of significant harm to an interest that is entitled to protection under the law and that is independent of the proponent's (or the court's) desire simply to keep the discovered information out of public view or inaccessible to the authorities."). The Court should reject Monsanto's invitation to be a censor.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court deny Monsanto's Emergency Application in its entirety. Plaintiffs' counsel followed the exact letter of this Court's orders. Punishing such conduct would be unjust and improper.

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DATED: August 4, 2017

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, R. Brent Wisner, hereby certify that, on August 4, 2017, I electronically filed the foregoing with the Clerk for the United States District Court for the Northern District of California using the CM/ECF system, which shall send electronic notification to counsel of record.

/s/ R. Brent Wisner
R. Brent Wisner

EXHIBIT A

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Re: *In Re: Roundup Products Liability Litigation*, 16-MD-2741 (N.D. Cal.)
Letter Initiating Meet-and-Confer

Counsel,

I write to initiate a meet-and-confer regarding the asserted "confidentiality" of specific documents produced by Monsanto in discovery. I have been appointed by the Plaintiffs' Leadership in the MDL to work on this issue with you.

This challenge is made pursuant to Paragraph 16.2 of the December 9, 2016 Protective and Confidentiality Order. We seek to meet-and-confer about documents we believe have been over-designated as "Confidential" by Monsanto. We have reviewed each document individually and selected only documents, listed out in detail on the attached chart, that do not contain trade secrets, sensitive commercial information, privileged material, or that are otherwise entitled to "confidential" protection under the law.

In compliance with the Court's Pre-Trial Order 15 (PTO-15), clear reasons are set forth in the attached chart for why each challenged document is relevant to the general causation stage of this litigation. Plaintiffs are making a good-faith effort to "confer in advance of court filings about whether documents previously designated confidential truly need that designation." PTO-15 at 4; *see* Feb 27, 2017 Tr. of Proceedings at 55. All of the documents challenged in this letter are reasonably likely to be used in this litigation and relate to this phase of litigation.

As you know, in the Court's Pre-Trial Order 20, the Court stated that "[i]n this phase of the MDL, the proper remedy for overdesignation is to correct the discrete instances of overdesignation that require correction given the needs of the litigation" and instructed the Parties to comply with the meet-and-confer process outlined in Section 16.2 of the Protective Order. Recognizing that Monsanto's designation of nearly every document produced in this litigation as "Confidential" was not done in bad-faith, but simply because Monsanto erred on the "side of caution," this letter and the requested meet-and-confer is your chance to address a discrete set of documents, identified in the attached chart, and correct Monsanto's overdesignations. It is my sincere hope that through the meet-and-confer process we can avoid burdening the Court with having to review these documents and this confidentiality dispute can be resolved without Court intervention.

The substantive basis for challenging *each* document is provided in the attached chart. Pursuant to the December 9, 2016 Protective and Confidentiality Order, you have fourteen (14) days to conduct a good-faith review of these documents and let us know whether you will be withdrawing these confidentiality designations, thus avoiding the need for any motion. I am available to meet-and-confer and ask that you notify us by Thursday, July 6, 2017 of when you will be able to systematically go through each of these documents to see if there is some way we can come to an agreement outside of Court intervention.

To further facilitate your review, we have redacted the documents to remove irrelevant identifying information such as addresses, email addresses, phone, and fax numbers. The redacted documents are available at HYPERLINK for your review. Additionally, we have grouped the documents by subject-matter.

Best,
BAUM HEDLUND ARISTEI & GOLDMAN, P.C.

By: _____

R. Brent Wisner
Michael L. Baum
Pedram Esfandiary

CHALLENGED DOCUMENTS

No	Bates	Description	Relevance
Issue: Ghostwriting, Peer-Review & Retraction			
1.	MONGLY01000676, MONGLY01000680 2/8/2016 - 2/9/2016	This document contains correspondence between Dr. William Heydens (Monsanto) and Ashley Roberts (Intertek) regarding the Expert Panel Manuscript. Dr. Heydens went "through the entire document and "indicated what I think should stay, what can go, and in a couple spots I did a little editing. I took a crack at adding a little text: on page 10 to address John's comments about toxicologists' use of Hill's criteria ... see what you think; it made sense to me, but I'm not sure if it will to others - please feel free to further modify and/or run by Cary." at *1. The edited draft is also attached and challenged for confidentiality.	This document is relevant and reasonably likely to be used in this litigation as it demonstrates Monsanto's significant role in drafting and editing a manuscript drafted by supposedly independent expert consultants to refute IARC's carcinogenicity conclusions regarding glyphosate without disclosing Monsanto's contributions. This document is related to how the inherent conflict of interest may affect the credibility of the manuscript's refuting IARC's general causation conclusion. The reliability and consensus of scientific literature is directly relevant to general causation. This document also goes to witness credibility.
2.	MONGLY00999487 1/6/2016	This document contains email correspondence between Dr. Heydens and Ashley Roberts (Intertek) wherein Dr. Heydens admits to writing "a draft introduction chapter back in October/November…[a]nd then comes the question of who should be the ultimate author ... you or Gary? I was thinking you for the Introduction chapter and Gary for the Summary chapter, but I am totally open to your suggestions." at *2.	This document is relevant and reasonably likely to be used in this litigation as it again indicates that Monsanto was a significant contributor to the Expert Panel Manuscript without disclosing its substantive role in the final publication which refuted IARC's general causation conclusion. Dr. Heydens explicitly suggests that affiliated consultants appear as authors instead of himself. Indeed, Monsanto own experts rely on the "Expert Panel" analysis. The reliability and consensus of scientific literature is directly relevant to general causation. This document also goes to witness credibility.
3.	MONGLY00998682, MONGLY00998687 1/9/2016 - 1/13/2016	The documents contain email correspondence between Dr. William Heydens and Ashley Roberts (Intertek) wherein Dr. Heydens heavily edits ("here are my suggested edits to the Draft Combined Manuscript" at *1) the Expert Panel's manuscript drafted in opposition	The documents are relevant and reasonably likely to be used in this litigation as they demonstrate that the manuscript published under the authorship of the Expert Panel was composed with substantive contributions by Monsanto. Monsanto did not disclose its role in drafting the manuscript

No	Bates	Description	Relevance
		to IARC's classification of glyphosate. The edited draft is also attached and challenged for confidentiality.	which directly challenged the general causation "2A probable carcinogen" conclusion by IARC. Indeed, Monsanto own experts rely on the "Expert Panel" analysis. The reliability and consensus of scientific literature is directly relevant to general causation. These documents also go to witness credibility.
4.	MONGLY02085862 2/4/2016	This document contains an email from Dr. Heydens to Ashley Roberts regarding the introduction to the Expert Panel Manuscript. Among other features, Dr. Heydens' draft attempts to convey "that glyphosate is really expansively used." at *1.	It is relevant and reasonably likely to be used in this litigation for the same reasons as the above (MONGLY01000676) document. The reliability and consensus of scientific literature is directly relevant to general causation. This document also goes to witness credibility.
5.	MONGLY01023968 5/8/2015 - 5/11/2015	This document contains email correspondence between Michael Koch and Dr. William Heydens regarding "Post-IARC Activities to Support Glyphosate". Dr. Heydens explicitly identifies one of the goals as "Publication on Animal Data Cited by IARC…Manuscript to be initiated by Mon as ghost writers". at *1.	This document is relevant and reasonably likely to be used in this litigation as it demonstrates Monsanto's involvement in scientific publications without disclosing inherent conflicts of interest. Through ghost-writing, Monsanto is able to populate the scientific discourse with favorable studies on glyphosate without appearing to be involved in the dissemination of data. Regulators and consumers are thus not provided with an impartial and transparent assessment of Roundup and glyphosate; assessments which are then relied upon to evaluate the biological plausibility of Roundup and/or glyphosate as a carcinogen. This document is of similar nature to a document already de-designated by the Court in which Dr. Heydens advocates ghostwriting. *See* MONGLY00977267. The reliability and consensus of scientific literature is directly relevant to general causation. This document also goes to witness credibility.
6.	MONGLY01030787	This document contains email correspondence between various Monsanto personnel and consultants wherein	This document is relevant and reasonably likely to be used in this litigation as it confirms Monsanto's

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	11/3/2015 - 11/6/2015	Dr. John Acquavella protests Monsanto's ghost-writing activities: "I can't be a part of deceptive authorship on a presentation or publication… We call that ghost writing and it is unethical." at *2, 3.	ghostwriting of scientific studies used by Monsanto to deny the biological plausibility of Roundup and/or glyphosate acting as a carcinogen. Regulators and scientists, relying upon ghostwritten studies, cannot weigh conflicts of interest when using the data to determine causation between glyphosate and carcinogenicity. The reliability and consensus of scientific literature is directly relevant to general causation. This document also goes to witness credibility.
7.	MONGLY02063095 9/26/2012	This document contains a series of email exchanges between various Monsanto personnel regarding letters to the editor of Food and Chemical Toxicology seeking retraction of a study by Professor G.E. Seralini. Mr. Eric Sachs writes about his efforts to galvanize scientists in a letter-writing campaign in order to retract the article: "I talked to Bruce Chassy and he will send his letter to Wally Hayes directly and notify other scientists that have sent letters to do the same. He understands the urgency…I remain adamant that Monsanto must: not be put: in the position of providing the critical analysis that leads the editors to retract the paper." at *3, 2; *see also* MONGLY01045298 (below).	This document is relevant and reasonably likely to be used in this litigation as it demonstrates the significant role played by Monsanto in achieving the successful retraction of a scientific study regarding glyphosate's carcinogenicity without appearing to be directly involved in such efforts. Monsanto's influence on the quality and quantity of scientific data on glyphosate is related to the conclusions that regulators and researchers are able to reach with respect to whether carcinogenicity is a biologically plausible feature of glyphosate. The reliability and consensus of scientific literature is directly relevant to general causation. This document also goes to witness credibility.
8.	MONGLY01045298 8/20/2013	This document identifies the "Business Goals" of Monsanto employee David Saltmiras for the fiscal year 2013. Dr. Saltmiras explicitly states under the "Employee Comments" section: "Throughout the late 2012 Seralini rat cancer publication and media campaign, I leveraged my relationship the Editor of Chief of the publishing journal, Food and Chemical Toxicology and was the single point of contact between Monsanto and the Journal." at 6. Moreover, Dr. Saltmiras acknowledges that he "[s]uccessfully facilitated numerous third party expert letters to the	This document is relevant and reasonably likely to be used in this litigation for similar reasons as the previous (MONGLY02063095) document. Dr. Saltmiras acknowledges Monsanto's intimate contact with the editor of FCT which, per document MONGLY02063095, led to the retraction of Professor Seralini's study from Food and Chemical Toxicology. The reliability and consensus of scientific literature is directly relevant to general causation. This document also goes to witness credibility.

No	Bates	Description	Relevance
		editor which were subsequently published, reflecting the numerous significant deficiencies, poor study design, biased reporting and selective statistics employed by Seralini." at 3.	
9.	MONGLY00900629 9/26/2012	This document contains email correspondence between Bruce Chassy and the Editor of Food and Chemical Toxicology, Wallace Hayes, wherein Dr. Chassy urges Mr. Hayes to retract the Seralini paper at Monsanto's request (discussed above): "My intent was to urge you to roll back the clock, retract the paper, and restart the review process." at *2.	This document is relevant and reasonably likely to be used in this litigation as it confirms Monsanto's campaign to eliminate a study which observed the adverse effects of glyphosate. It is relevant for the same reasons as documents MONGLY02063095 and MONGLY01045298. The reliability and consensus of scientific literature is directly relevant to general causation. This document also goes to witness credibility.
10.	MONGLY02185742 8/21/2012	This document is a 2012 consulting agreement between Monsanto and the editor of Food and Chemical Toxicology, Wallace Hayes for the period immediately preceding Mr. Hayes's involvement in the retraction of the Seralini paper from Food and Chemical Toxicology.	This document is relevant and reasonably likely to be used in this litigation as it demonstrates the conflict of interest between Mr. Hayes' role as a consultant for Monsanto and his vocation as editor for a research journal which retracted a study determining that glyphosate is capable of being a carcinogen. The document is further indication of Monsanto's pervasive influence within the scientific community which is related to the availability and quality of data on glyphosate used by researchers and regulators to assess the scientific literature in determining the potential carcinogenicity of glyphosate. The reliability and consensus of scientific literature is directly relevant to general causation. This document also goes to witness credibility.
11.	MONGLY00971543 8/12/2012 - 8/13/2012	This document is an email from Dr. David Saltmiras to Dr. Heydens wherein Dr. Saltmiras states "Contact Wallace Hayes to determine his availability and fees for attending the meeting."	The document does not contain trade secrets, sensitive commercial information or privileged material. This document is relevant and reasonably likely to be used in this litigation for the same reasons as the above (MONGLY02185742) document. Mr. Hayes' paid consultancy for

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			Monsanto constitutes a conflict of interest with his role as editor of a journal publishing research on glyphosate--especially given his involvement in retracting a study pertaining to the biological plausibility of glyphosate as a human carcinogen. The reliability and consensus of scientific literature is directly relevant to general causation. This document also goes to witness credibility.
12.	MONGLY01096619 9/19/2012 - 9/20/2012	This document contains an email correspondence between various Monsanto personnel wherein Dr. Saltmiras expresses the following with respect to the recently published study in Food and Chemical Toxicology by Seralini: "Wally Hayes, now FCT Editor in Chief for Vision and Strategy, sent me a courtesy email early this morning. Hopefully the two of us will have a follow up discussion soon to touch on whether I C'I' Vision and Strategy were front and center for this one passing through the peer review process.... and what is that, Vision and Strategy? I also suspect this paper may be in our own best interests - the last rites for Seralini's few remaining shreds of scientific credibility." at *2.	This document is relevant and reasonably likely to be used in this litigation as it confirms Monsanto's intimate relationship with Wallace Hayes who was subsequently involved in retracting professor Seralini's study pertaining to the biological plausibility of glyphosate as a human carcinogen, a conclusion that was adverse to Monsanto's commercial agenda. The reliability and consensus of scientific literature is directly relevant to general causation. This document also goes to witness credibility.
13.	MONGLY00978886 10/9/2012 - 10/10/2012	This document contains email correspondence between various Monsanto personnel wherein Daniel Goldstein writes the following with respect to professor Seralini's study: "Retraction- Both Dan Jenkins (US Government affairs) and Harvey Glick made a strong case for withdrawal of the paper if at all possible, both on the same basis- that publication will elevate the status of the paper, bring other papers in the journal into question, and allow Seralini much more freedom to operate. All of us are aware that the ultimate decision is up to the editor and the journal management, and that we may not have an opportunity for withdrawal in any event, but I felt it was worth reinforcing this request." at *3.	The document does not contain trade secrets, sensitive commercial information or privileged material. This document is relevant and reasonably likely to be used in this litigation as it confirms Monsanto's attempt to seek retraction of a study pertaining to the biological plausibility of glyphosate as a human carcinogen; a conclusion adverse to Monsanto's commercial agenda. Mr. Goldstein makes it clear that a retraction would curtail professor Seralini's "freedom to operate." *Id*. The reliability and consensus of scientific literature is directly relevant to general causation. This document also goes to witness credibility.

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14.	MONGLY00936725 9/28/2012	This document contains email correspondence between Dr. Goldstein and Eric Sachs regarding the Monsanto campaign to retract professor Seralini's paper. Dr. Goldstein states: "I was uncomfortable even letting shareholders know we are aware of this LTE.... It implies we had something to do with it- otherwise how do we have knowledge of it? I could add 'Aware of multiple letters to editor including one signed by 25 scientists from 14 countries' if you both think this is OK." at *1. Mr. Sachs responds: "We are 'connected' but did not write the letter or encourage anyone to sign it." *Id.*	This document is relevant and reasonably likely to be used in this litigation as confirms Monsanto's undisclosed involvement in the successful retraction of a paper pertaining to the biological plausibility of glyphosate as a human carcinogen; a conclusion adverse to Monsanto's commercial agenda. Moreover, the document demonstrates that Monsanto personnel were aware of the imperative need to covertly instigate the retraction campaign and the inappropriateness of such action. The reliability and consensus of scientific literature is directly relevant to general causation. This document also goes to witness credibility.
15.	MONGLY01238768 9/12/2008	This document is a peer review by Monsanto employee Dr. Charles Healy of a study titled "Cytotoxicity of herbicide Roundup and its active ingredient, glyphosate in rats". The document contains recommendations for rejecting the study which found substantial adverse cytotoxic effects associated with Roundup and glyphosate.	This document is relevant and reasonably likely to be used in this litigation as it demonstrates Monsanto's covert manipulation of the science on glyphosate cytotoxicity given Dr. Healy's vested interests in Monsanto which conflict with the impartiality of the peer review process. Access to comprehensive, impartial peer-reviewed data on glyphosate, which is relied upon by both regulators and scientists to determine the associations between glyphosate and cancer, is thus limited given that Monsanto is able to circumvent the impartiality of the peer-review process. The reliability and consensus of scientific literature is directly relevant to general causation. This document also goes to witness credibility.
16.	MONGLY02286842 8/19/2008	This document is an email from Dr. Charles Healy to Drs. Farmer and Saltmiras wherein Dr. Healy requests that Drs. Farmer and Saltmiras review the article that Dr. Healy has been asked to review: "you two would be the reviewers in fact and I would then collate your comments and be the reviewer of record." at *1.	This document is relevant and reasonably likely to be used in this litigation for the same reasons as the above (MONGLY01238768) document. Dr. Healy is violating the standards of the peer-review process by asking his Monsanto colleagues to review a study which observed the cytotoxic effects of glyphosate. Drs. Healy, Farmer, and Saltmiras all have vested interests in the study not

No	Bates	Description	Relevance
			being accepted for publication. The reliability and consensus of scientific literature is directly relevant to general causation. This document also goes to witness credibility.
17.	MONGLY01189468 9/9/2008	This document is an email from Dr. Charles Healy to Drs. Donna Farmer and David Saltmiras wherein Dr. Healy informs Drs. Farmer and Saltmiras that their decision regarding the study sent to Dr. Healy for peer-review will determine whether the study will be published.	This document is relevant and reasonably likely to be used in this litigation as it confirms Monsanto's efforts in ensuring that studies which reach conclusions of adverse health effects associated with glyphosate are covertly barred from publication and do not contribute to the carcinogenic assessment of glyphosate. The reliability and consensus of scientific literature is directly relevant to general causation. This document also goes to witness credibility.
18.	MONGLY01723742 8/4/2015	This document is from the custodial file of Dr. David Saltmiras and is titled "Glyphosate Activities". Dr. Saltmiras' activities for 2015 included: "IARC prep: AHS Sorahan reanalysis for multiple myeloma presented at EUROTOX 2012, Kier & Kirkland (2013), ghost wrote cancer review paper Greim et al. (2015), coord Kier (2015) update to K&K, pushed for Sorahan (2015)."	This document is relevant and reasonably likely to be used in this litigation as it demonstrates Monsanto's involvement in ghostwriting studies discussing the carcinogenic potential of glyphosate which is subsequently relied upon by the scientific community in determining general causation issues such as the biological plausibility of glyphosate as a carcinogen. The reliability and consensus of scientific literature is directly relevant to general causation. This document also goes to witness credibility.
19.	MONGLY02356274, MONGLY02356209 6/19/2016 - 7/7/2016	This document contains email correspondence between Roger McClellan (editor of the journal which published the Expert Panel Manuscript) and Ashley Roberts regarding the Expert Panel Manuscript. Mr. McClellan notes several issues with the initial daft of the Manuscript and states: "These reports are essentially a rebuttal of IARCs process and conclusions. There appears to be a reluctance to be absolutely clear in presenting exactly what IARC	This document is relevant and reasonably likely to be used in this litigation as it contains an opinion by the editor of the journal that published the Expert Panel Manuscript that the Manuscript, which Monsanto edited and revised, essentially sought to discredit IARC and IARC's methodology which offered a general causation conclusion regarding glyphosate carcinogenicity that was adverse to Monsanto's commercial

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		concluded, the Panels conclusions and how they differ." at *4. The attached initial draft of the manuscript is also challenged for confidentiality.	agenda. The reliability and consensus of scientific literature is directly relevant to general causation. These documents also go to witness credibility.
20.	MONGLY00919381, MONGLY00919400 11/18/2010	This document is an email and from Dr. Donna Farmer wherein she informs John DeSesso that she "added a section in genotox from the Gasnier study ...see a attached a critique we did that I took that from. Am working on a section for gasiner in the mechanistic section. Also we cut and pasted in summaries of the POEA surfactant studies." at *1. The attachment is a draft of the Williams et. al. study with significant edits by Dr. Farmer which is also challenged for confidentiality	Both documents are relevant and reasonably likely to be used in this litigation as they demonstrate Monsanto's covert manipulation of the available scientific data on glyphosate. Scientists reading this published and peer-reviewed article would be unaware that the data was furnished by a biased contributor and the document is related to whether the inherent conflict of interest affects the merits of the data when determining the biological plausibility of glyphosate as a carcinogen. The reliability and consensus of scientific literature is directly relevant to general causation. These documents also go to witness credibility.
21.	MONGLY01005425 2/23/2015 - 2/24/2015	This document contains email correspondence between Eric Sachs (Monsanto) and Henry Miller, a Forbes contributor and fellow of the Stanford Hoover institute. Mr. Sachs asks Mr. Miller: "Are you interested in writing a column on this topic? Ideally, your article would precede the IARC decision. Why not set the table with the weight of scientific evidence before IARC convenes? Then, regardless of what they do, your article will set the stage for a science-based response." at *2. Moreover, Mr. Sachs informs his Monsanto colleagues: "Henry agreed to author an article on Forbes.com. John will work with a team internally to provide a draft and Henry will edit/add to make it his own." at *1.	This document is relevant and reasonably likely to be used in this litigation as it demonstrates Monsanto's effort to foster criticism of IARC in an article in anticipation of IARC's general causation classification of glyphosate as a probable carcinogen. Monsanto is a significant contributor to the article without disclosing its interest and involvement. The reliability and consensus of scientific literature is directly relevant to general causation. This document also goes to witness credibility.
22.	MONGLY02063611, MONGLY02063572 3/12/2015 - 3/18/2015	This document contains email correspondence between various Monsanto personnel and Henry Miller. Mr. Miller is asked by Monsanto to write about the IARC decision and Mr. Miller responds with a request for a "high quality draft." at *6. Mr. Eric Sachs (Monsanto)	This document is relevant and reasonably likely to be used in this litigation as it demonstrates Monsanto ghostwriting an article criticizing and discrediting IARC following the latter's general causation opinion that was adverse to Monsanto's

No	Bates	Description	Relevance
		informs Mr. Miller that "We have a draft nearly done and will send to you by tomorrow." at *5.	commercial agenda. The attachment (MONGLY02063572) is a publicly available article and is thus inappropriately labeled confidential by Monsanto. The reliability and consensus of scientific literature is directly relevant to general causation. These documents also go to witness credibility.
23.	MONGLY01680756 8/17/2015	This document is a consulting agreement between Monsanto and Larry D. Kier, one of the individuals on the Intertek Expert Panel. Although the Expert Panel was supposed to be composed of scientists independent of Monsanto, the consulting agreement demonstrates that Dr. Kier worked directly for Monsanto and this relationship was not disclosed in the published manuscript.	This document is relevant and reasonably likely to be used in this litigation as it indicates the inherent conflict of interest between Dr. Kier as a consultant for Monsanto and his participation on the expert panel, which was concerned with addressing the general causation carcinogenicity conclusion by IARC. The reliability and consensus of scientific literature is directly relevant to general causation. This document also goes to witness credibility.
24.	MONGLY02816607 8/6/2015 - 8/14/2015	This document contains email correspondence between various Monsanto employees wherein Dr. Donna Farmer comments with respect to the Expert Panel: "We have another consulting doing the same thing that John Acquavella is doing for the epidemiology area... Larry Kier is facilitating the gentox area of the expert, panel. We have had a contract with Larry Kier before. How do we get this set up for Larry so that he too can be paid - 12K in 2015? at *2.	This document is relevant and reasonably likely to be used in this litigation as it demonstrates that Drs. Acquavella and Kier were hired Monsanto consultants prior to and during the expert panel- this inherent conflict of interest was not disclosed by the published manuscript which offered a rebuttal of IARC's general causation carcinogenicity opinion. The reliability and consensus of scientific literature is directly relevant to general causation. This document also goes to witness credibility.
25.	MONGLY03934897 8/31/2015	This document is an invoice dated August 31, 2015 from Monsanto to Dr. John Acquavella in the sum of $20,700 for "consulting hours in August 2015 related to the glyphosate expert epidemiology panel." at *1.	This document is relevant and reasonably likely to be used in this litigation as it speaks to the inherent conflict of interest between Dr. Acquavella as a paid consultant for Monsanto and his participation on the expert panel, which was concerned with addressing the general causation carcinogenicity conclusion by IARC. The

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			reliability and consensus of scientific literature is directly relevant to general causation.
26.	ACQUAVELLAPROD 00014559 1/7/2016	This document contains email correspondence from 2016 between Drs. Acquavella and Heydens discussing Dr. Acquavella's consulting for Monsanto "on glyphosate litigation." at *2.	This document is relevant and reasonably likely to be used in this litigation as it demonstrates Dr. Acquavella's long-term consultancy for Monsanto on glyphosate-related issues, specifically with respect to the general carcinogenicity of glyphosate. The reliability and consensus of scientific literature is directly relevant to general causation.
Surfactants, Carcinogenicity & Testing			
27.	MONGLY00922458 11/21/2003-11/24/2003	This document contains email correspondence between Donna Farmer and Sekhar Natarajan, in which Dr. Farmer discusses the potential adverse effects of the formulated Roundup product, conceding that "you cannot say that Roundup is not a carcinogen…we have not done the necessary testing on the formulation to make that statement." at *1-2.	This document is relevant and reasonably likely to be used in this litigation as it evinces knowledge by a Monsanto toxicologist regarding the biological plausibility of the Roundup formulation, as opposed to glyphosate by itself, to act as a human carcinogen. This is also relevant to Dr. Farmer's credibility, who is one of Monsanto's primary expert witnesses at the company.
28.	MONGLY01155974 12/10/2010-12/14/2010	This document contains email correspondence between various Monsanto personnel wherein Stephen Adams addresses the issue of testing Roundup formulations: "With regards to the carcinogenicity of our formulations we don't have such testing on them directly…" at *1.	This document is relevant and reasonably likely to be used in this litigation as it contains admissions by a Monsanto employee which strongly undermine Monsanto's contentions that it is not biologically plausible for the Roundup formulation to be carcinogenic. It militates against Monsanto's claim that it has carried out sufficient testing to rule out the biological plausibility of Roundup to act as a human carcinogen.
29.	MONGLY00923065 2/12/2001 - 2/13/2001	This document contains email correspondence between various Monsanto personnel wherein Dr. Mark Martens states: "I don't know for sure how suppliers would react - but if somebody came to me and said they wanted to test Roundup I know how I would react - with serious concern. We have to really think about doing formulations even if they are not on the market .	This document is relevant and reasonably likely to be used in this litigation as it contains explicit concerns by Monsanto regarding the biological plausibility of the formulated product to cause cancer.

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		. . glyphosate is still in there and could get caught up in some false positive finding. at *1.	
30.	MONGLY00877683 7/29/1999 - 8/3/1999	This document, from 1999, contains email correspondence between various Monsanto personnel wherein Dr. Donna Farmer writes: "I will not support doing any studies on glyphosate, formulations or other surfactant ingredients at this time with the limited information we have on the situation." at *2.	This document is relevant and reasonably likely to be used in this litigation as it demonstrates reluctance by a key Monsanto toxicologist to conduct studies on either glyphosate, Roundup formulations, or surfactant ingredients, suggesting Monsanto was concerned with the results it would find. This is relevant to the issue of biological plausibility of Roundup and/or glyphosate as a carcinogen. Indeed, Monsanto maintains that it is not biologically plausible for Roundup or glyphosate to be carcinogenic, a central contention of the general causation litigation, but then expresses fear of conducting studies since it will show a cancer risk. This is also relevant to Dr. Farmer's credibility, who is one of Monsanto's primary expert witnesses at the company.
31.	MONGLY01159775 3/4/2013 - 3/5/2013	This document contains email correspondence between various Monsanto personnel wherein Xavier Belvaux confirms that: "We do not conduct sub-chronic, chronic or terotogenicity studies with our formulations." at *2.	This document is relevant and reasonably likely to be used in this litigation as it contains express admissions by Monsanto that it has not tested Roundup for chronic or sub-chronic toxicity. Such lack of thorough toxicological analysis undermines Monsanto's firm denial of the biological plausibility of Roundup's carcinogenicity based on sufficient testing.
32.	MONGLY07080361 7/5/2000	This document is a study "site visit" from July 7, 2000 of the "Farm Family Exposure" study. Dr. John Acquavella (Monsanto employee at the time) and John Cowell conduct the site visit. The report indicates numerous deficiencies with the study, including: "Protocol amendments had not yet been forwarded to the study team from Exponent; Many of the urines were very spotty and we found one day's urine that was obviously doctored. As at the Minnesota field site, the	This document is relevant and reasonably likely to be used in this litigation as it outlines significant deficiencies—including use of potentially doctored or "coached" data—with a study evaluating glyphosate exposure and the biological plausibility of glyphosate as a carcinogen. This goes to the credibility and reliability of the study, which is relied upon extensively by Monsanto to mount its general causation defense.

No	Bates	Description	Relevance
		field team is not reviewing the urines carefully and there is little, if any, coaching of the farm families; There were some obvious errors or missing entries in the questionnaires." at *7-8.	
33.	MONGLY00978170 9/16/2015 - 11/2/2015	This document contains email correspondence between Ashley Roberts (Intertek), Dr. Tom Sorahan (Monsanto consultant), and Dr. John Acquavella (former Monsanto employee and consultant). Dr. Sorahan reckons it is not accurate to claim that there is no evidence for Roundup's carcinogenicity. at *2. Dr. Acquavella concurs: "I agree as well that you can't say that there is no evidence." at *1.	This document is relevant and reasonably likely to be used in this litigation because it supports Plaintiffs' claim that there is evidence that Roundup causes cancer. This document is also relevant to Daubert, since it shows independent Monsanto's consultants and scientists agreeing about the possibility that Roundup causes cancer.
34.	MONGLY01182770 7/15/2008	This document is a PowerPoint presentation concerning the "EU Expert Advisory Panel". Page 6 of the presentation is titled: "Monsanto's Roundup ® acts on one of the key stages of cellular division, which can potentially lead to cancer in the long term." at *6. The page references a French in-vitro study which observed adverse effects associated with Roundup. The final page contains "questions" regarding how to "position" in-vitro hazards using "urine concentrations from applicator exposure into plasma concentrations." at *7. Monsanto also considers the risks in "running a new study". *Id*.	This document is relevant and reasonably likely to be used in this litigation to demonstrate that Monsanto was aware of the biological plausibility of Roundup as a carcinogen and realized the risks in conducting new studies that would confirm this suspicion already prevalent in the existing scientific literature.
35.	MONGLY00989918 10/15/2014	This document is an email from Dr. William Heydens to Richard Garnett regarding the "IARC evaluation of Glyphosate" wherein Dr. Heydens concedes that "while we have vulnerability in the area of epidemiology, we also have potential vulnerabilities in the other areas that IARC will consider, namely, exposure, genetox, and mode of action…" at *1.	This document is relevant and reasonably likely to be used in this litigation as it contains an admission from 2014 (more than six months before IARC classified glyphosate) by a leading Monsanto toxicologist that glyphosate faces issues in the areas of epidemiology, exposure, genotoxicity, and mode of action in the general causation evaluation by IARC, which indeed found that it is probable for glyphosate to act as a human carcinogen based upon the areas identified by Dr. Heydens. It suggests reliability of IARC's

No	Bates	Description	Relevance
			assessment, which goes to the heart of general causation. This is also relevant to Dr. Heyden's credibility, who is one of Monsanto's primary expert witnesses at the company.
36.	MONGLY00990361 3/13/2015 - 3/17/2015	This document contains an email from Dr. William Heydens to Mr. Josh Monken (Monsanto) wherein Dr. Heydens admits to the "Low level presence of formaldehyde" (carcinogen by inhalation) in Roundup; and "Low level presence of NNG (N-nitroso-glyphosate) in Roundup - many N-Nitroso compounds are carcinogenic."	This document is relevant and reasonably likely to be used in this litigation as a Monsanto toxicologist contradicts Monsanto's claim that it is not biologically plausible for glyphosate nor the Roundup formulation to be carcinogenic. This document suggests the opposite. It is also relevant to credibility of Dr. Heydens.
37.	MONGLY00885526 4/19/2002 - 4/25/2002	This document is an email correspondence between Drs. William Heydens and Donna Farmer, wherein the two discuss various studies which observed adverse effects by the formulated Roundup product. Specifically, Dr. Farmer acknowledges: "[t]he interest point is glyphosate all basically [sic] had no effect the formulated product did - does this point us to the coformulants - sufactants? [sic]" at *2. Dr. Heydens also admits, after discussing with Monsanto consultant John Desesso, that "we are in pretty good shape with glyphosate but vulnerable with surfactants. . . What I've been hearing from you is that this continues to be the case with these studies - Glyphosate is OK but the formulated product (and thus the surfactant) does the damage." at *1.	This document is relevant and reasonably likely to be used in this litigation as it is an indication that Monsanto was cognizant of the adverse effects of surfactants or was otherwise uncertain of the effects of surfactants in the formulated Roundup product with cancer. It is further directly relevant to general causation as Monsanto's toxicologists (deposed during general causation discovery) discuss Monsanto's position that it is not biologically plausible for Roundup to pose adverse health effects, a central feature of this litigation which is challenged by Plaintiffs. This is also relevant to Drs. Farmer's and Heyden's credibility, who are some of Monsanto's primary expert witnesses at the company.
38.	MONGLY06486905 4/17/1999 - 4/19/1999	This document contains email exchanges between various Monsanto personnel wherein Dr. Donna Farmer summarizes the findings of Monsanto's expert, Dr. James Parry: "Dr. Parry concluded on his evaluation of the four articles that glyphosate is capable of producing genotoxicity both in vivo and in vitro by a mechanism based upon the production of oxidative damage." at *3.	The document is relevant and reasonably likely to be used in this litigation as it contains conclusions by a former Monsanto expert in support of the biological plausibility of glyphosate to cause cancer—namely through glyphosate's genotoxic potential and its capacity to precipitate oxidative stress. This is also relevant to Dr. Farmer's credibility, who is one of Monsanto's primary expert witnesses at the company.

No	Bates	Description	Relevance
39.	MONGLY01183933 8/6/2015 - 8/7/2015	This document contains email correspondence between various Monsanto personnel regarding the Roundup formulation and the respective effects of glyphosate and surfactants, wherein Dr. William Heydens states that "surfactant in the formulation will come up in the tumor promotion skin study because we think it played a role there." At *3.	This document is relevant and reasonably likely to be used in this litigation as it once again demonstrates conclusions by Monsanto that it is biologically plausible for the formulated product to promote tumors. This is also relevant to Dr. Heyden's credibility, who is one of Monsanto's primary expert witnesses at the company.
40.	MONGLY01208470 9/18/2014	This document contains an email from Dr. Donna Farmer to Dr. John Acquavella. Dr. Farmer notes: "Just wanted to let you that what we have long been concerned about has happened. Glyphosate is on for an IARC review in March of 2015." at *1.	This document is relevant and reasonably likely to be used in this litigation as it demonstrates Monsanto's long-term concerns about glyphosate being tested by an independent research agency which rendered a general causation conclusion regarding the potential for glyphosate to cause cancer. It also suggests reliability, an element under *Daubert*. This is also relevant to Dr. Farmer's credibility, who is one of Monsanto's primary expert witnesses at the company.
41.	MONGLY01179185 10/14/2008	This document contains email correspondence wherein Dean Nasser (Monsanto) sends a "Beyond Pesticides" publication to Dr. Donna Farmer. The publication references a study which found positive association between glyphosate and Non-Hodgkin's Lymphoma. Dr. Farmer responds: "We have been aware of this paper for awhile and knew it would only be a matter of time before the activists pick it up… how do we combat this?" at *1.	This document is relevant and reasonably likely to be used in this litigation as it indicates Monsanto has been aware of the links between glyphosate and NHL for a considerable amount of time. Furthermore, as Dr. Farmer indicates, Monsanto aim to "combat" the biological plausibility of glyphosate as a carcinogen only when the information gains significant public attention. This is relevant since it lends support to Plaintiffs' assertion that Monsanto has taken deliberate actions to influence scientific literature by attacking any study showing a link between Roundup and cancer. This is also relevant to Dr. Farmer's credibility, who is one of Monsanto's primary expert witnesses at the company.
42.	MONGLY00878828 3/8/2000 - 3/12/2000	This document contains email correspondence between various Monsanto personnel wherein it is stated with respect to Roundup surfactants: "While the tallow	This document is relevant and reasonably likely to be used in this litigation as it indicates that Monsanto was aware of the toxic effects of the

No	Bates	Description	Relevance
		amine was considered toxic at 62.5 and 15.6 ug/ml, the C12 alkyl sulfate didn't exhibit toxicity at any of the test doses. While both of these compounds produced a marginal response which didn't meet the test criteria for a robust positive, they did elicit an effect which was judged to be an equivocal, but test article-related effect." at *5.	tallow amine surfactant in the formulated Roundup product. This admission expressly contradicts Monsanto's position that there is no biologically plausible basis for Roundup to be considered a carcinogen.
43.	MONGLY02721133 9/1/2005	This document is a PowerPoint presentation which details Monsanto's regulatory goals for 2010. The strategy in Germany was to "Defend POEAs" and "push back on data requests." at *10.	This document is relevant and reasonably likely to be used in this litigation as it demonstrates Monsanto's unwillingness to cooperate with national regulatory agencies in providing comprehensive data for the registration of Roundup. This is particularly relevant since Monsanto routinely relies on the evaluations of foreign regulatory agencies to support its claim that Roundup does not cause cancer. The lack of data regarding the safety of the formulated product (in this instance the surfactant POEA) is related to the issue of regulatory agencies reaching an informed consensus on the carcinogenicity of Roundup. An important feature of general causation discovery has entailed the extent to which Monsanto circumvented proper regulatory safe guards.
44.	MONGLY01051709 9/30/2013- 10/22/2013	This document contains email correspondence between various Monsanto personnel regarding glyphosate registration and the presence of formaldehyde: "…our renewal has been rejected by technical expert due to the content of formaldehyde in our glyphosate." at *5.	This document is relevant and reasonably likely to be used in this litigation given that it pertains to a central general causation issue—the denial of glyphosate registration by a regulatory agency due to the presence of a carcinogenic chemical in glyphosate (formaldehyde). This is also relevant to biological plausibility issues.
45.	ACQUAVELLAPROD 00008909 1/23/2015	This document contains email correspondence between Drs. Donna Farmer and John Acquavella, wherein Dr. Acquavella discusses the response from DeRoos, who carried out an epidemiological study on glyphosate, to	This document is relevant and reasonably likely to be used in this litigation as Monsanto's former employee and consultant recognizes the potential relevance of other ingredients in Roundup

No	Bates	Description	Relevance
		Monsanto's comments regarding the dose thresholds cited by Monsanto as relevant for carcinogenicity. Dr. Acquavella reflects with respect to DeRoos' comments: "the issue of the human findings representing relevant routes of exposure (whatever that means) and being interpretable in and of themselves. Perhaps Tom should be prepared regarding the other ingredients in Roundup formulations being relevant for judging glyphosate." at *1.	formulations in assessing the biological plausibility of glyphosate as a carcinogen. It also lends support to the DeRoos study, which is relied upon by experts on both sides. The document is also relevant to credibility of one of Monsanto's primary witnesses, Dr. Acquavella.
Absorption, Distribution, Metabolism & Excretion			
46.	MONGLY03738295, MONGLY00888353 3/29/2002 - 4/2/2002	These documents contains email correspondence (MONGLY03738295) between various Monsanto personnel regarding a Monsanto (MONGLY00888353) study on the dermal absorption of the formulated Roundup product as precipitated by the surfactant ("TNO Study"). Dr. Heydens expressed concerns with continuing such studies: "My primary concern is with the glyphosate in terms of the potential for this work to blow Roundup risk evaluations (getting a much higher dermal penetration than we've ever seen before." at *1.	These documents are relevant and reasonably likely to be used in this litigation as they pertain to (and contradict) Monsanto's causation defense that Roundup has a low absorption rate. The results of the TNO study show "in vitro dermal penetration of glyphosate [with surfactant] through rat skin [to be] between 5 and 10%," but lower than 1.5% "in the absence of surfactants[.]" This scientific data is particularly relevant since it relates to the effects of the formulated product, i.e. Roundup, versus the effects of glyphosate alone. Since the EPA only examined glyphosate, and expressly excluded studies that used the formulation—the substance Plaintiffs actually used—this provides evidence from which a Trier of Fact could conclude the EPA's analysis was limited. Importantly, this study was never turned over to the EPA or European regulatory officials.
47.	MONGLY03737014 4/4/2002 - 4/5/2002	This document contains email correspondence between various Monsanto personnel wherein it is discussed that the Monsanto programs, including the TNO study (MONGLY00888353, challenged above), evaluating the absorption of glyphosate and formulations (including surfactants) will be ceased "because a further study was not likely to help us meet the project	This document is relevant and reasonably likely to be used in this litigation as it is directly related to the absorption, distribution, metabolism and excretion ("ADME") issue and biological plausibility, coupled with Monsanto's refusal to conduct further studies when results from the TNO study demonstrated higher absorption of

No	Bates	Description	Relevance
		objective." at *2. Abandoning this scientific inquiry, however, "[w]e are left behind with too many questions after all this." at *1.	glyphosate based on the presence of the formulated product. It also goes to the heart of this Court's *Daubert* inquiry, showing that the lack of any scientific consensus is, in part, the product of Monsanto's avoiding testing of risks, not honest scientific investigation.
48.	MONGLY06722561 8/8/2003 - 8/11/2003	This document contains email correspondence between various Monsanto personnel wherein Dr. William Heydens observes with respect to two Monsanto rat studies: "Regarding acute toxicity, Terry, Donna and I reviewed mortality data from the inhalation database for IPA, NH4-, MEAand K-glyphoste formalations. Based on the mortality data seen in those studies, it is not outside the realm of possibilities that the 3 deaths were treatment – related." at *2.	This document is relevant and reasonably likely to be used in litigation as it contains an acknowledgment by Monsanto that glyphosate ADME—exposed through inhalation—has resulted in acute toxicity and caused the death of the test animals. Such "treatment-related deaths" via inhalation are directly relevant to the issue of whether it is biologically plausible for glyphosate to act as a human carcinogen.
49.	MONGLY02335782, MONGLY02335784 8/13/2008 - 8/20/2008	These documents contain email correspondence between various Monsanto personnel wherein Richard Garnett discusses the issue of acute toxicity via inhalation. Mr. Garnett states that glyphosate would be classified in the EU as "T Toxic; R23 Toxic by inhalation" based on a study he cites. at *1. The attachment is Monsanto Study "An Acute Nose-Only Inhalation Toxicity Study in Rats with Mon 78623". This study is one of the studies referenced by Dr. Heydens in the previous (MONGLY06722561) document to conclude that "it is not outside the realm of possibilities that the 3 deaths were treatment-related." MONGLY0672256 at *2.	These documents are relevant and reasonably likely to be used in this litigation as they are directly related to the issue of whether it is biologically plausible for glyphosate to act as a human carcinogen by virtue of respirational toxicity.
50.	MONGLY06424476 6/1/2004 - 7/9/2004 MONGLY06409924 3/5/2002 - 3/8/2002	The first document (MONGLY06424476) contains email correspondence between various Monsanto personnel regarding a 2002 Monsanto study which observed absorption of the surfactant (without glyphosate) in the GI Tract. Dr. Charles Healy (Monsanto) reports that the results showed "Absorption was at least 56% of dose at dosages of 1 and 10 mg/kg.	These documents are relevant and reasonably likely to be used in this litigation as they pertain to the ADME issue and biological plausibility—indeed Dr. Healy concedes that given the higher rate of absorption, Monsanto cannot justify avoiding "toxicity testing with similar inert ingredients." Given that the rate of absorption is

No	Bates	Description	Relevance
		Approximately 17-27% of the dose was eliminated in the urine and approximately 31-36% of the dose was found in the bile." at *2. The second document (MONGLY06409924) contains further discussion of this issue, stating that Monsanto's purpose for conducting the study, which was "to see results which show no GI tract absorption of a surfactant in the tallow/ether amine groups." MONGLY06409924 at *1. Indeed, Dr. Healy states in MONGLY06424476 that: "Basically what we demonstrated was that the material is absorbed through the GI tract as shown. Nothing I am aware of that needs to be reported. We were hoping that we could demonstrate that the material was not absorbed as a means to obviate the need to perform toxicity testing with similar inert ingredients. Obviously that hope was not realized." at *2.	one of the features Monsanto relies upon to argue that there is no biological plausibility for glyphosate and/or Roundup to be carcinogenic, these documents go to the heart of such defense and are related to issues in general causation.
51.	MONGLY06385823 9/23/2009	This document contains email correspondence between Monsanto personnel wherein Richard Garnett acknowledges that: "The ADME has always been the weak link in our argument and the Spanish response highlights that we have not got rid of the problem." at *1.	This document is relevant and reasonably likely to be used in this litigation as it is a recognition by Monsanto that there are fundamental flaws in Monsanto's argument for absorption and excretion of glyphosate—a fact observed by regulators in Spain in their assessment of glyphosate—which is related to the issue of whether it is biologically plausible for glyphosate to act as a human carcinogen. This document relates specifically to Monsanto's contention that glyphosate does not cause cancer because of low absorption rates.
52.	MONGLY06653096 5/20/2003 - 5/22/2003 MONGLY01832749 10/19/1999 - 10/21/1999	The first document (MONGLY06653096) contains email correspondence between various Monsanto personnel regarding "dermal penetration studies" wherein Dr. William Heydens notes the presence of "certain co-formulants like humectants that will make it highly likely we will get large amounts penetrating the skin." at *1. The second document (MONGLY01832749) contains acknowledgments by Dr. Daniel Goldstein that a humectant such as ethylene	These documents are relevant and reasonably likely to be used in this litigation as they are related to the issue of ADME absorption and that the formulated product is both absorbed at a higher rate and is more toxic—significant questions for the biological plausibility of glyphosate and Roundup as a carcinogen. Such information is likely to be considered vital by

No	Bates	Description	Relevance
	MONGLY01745304	glycol (which is present in most Roundup formulations) is toxic to children at 70 cc of Roundup with 5% of ethylene glycol. at *1. The Third document (MONGLY01745304) is a fact sheet about ethylene glycol which indicates its presence in Roundup formulations ("less than 2%") and that "EG is a significant human toxin". at *1.	regulators and researchers when assessing the carcinogenicity of Roundup and glyphosate.
53.	MONGLY04107778 8/16/2011 - 8/23/2011	This document contains email correspondence between Maurice De Billot (Monsanto) and Christophe Gustin, wherein Mr. De Billot discusses the difficulties of dermal absorption using the UK POEM (The UK Predictive Operator Exposure Model) metric: "In Europe we are getting prepared to submit MON 79991 (720g/kg) for approval under the new Reg 1107/2009. We ran the UKPOEM model using a dermal penetration value of 3% and do not pass when applying 3.6kg/ha for the tractor mounted sprayer. I am aware of the set of studies that you ran on dermal absorption using pure K-salt and IPA-salt and also MON 52276 and MON 79351 which showed dermal absorption values of 1%. Putting 1% in the model we get a good result, so will need to show that the 1% dermal absorption numbers are equally valid for the MON 79991 formulation." at *2.	This document is relevant and reasonably likely to be used in litigation as it demonstrates that a difference of a couple of percentage points on dermal absorption using the UK POEM can change the regulatory risk assessment of glyphosate from safe to unsafe. A key element of Monsanto's defense on causation is that even if glyphosate could conceivably cause cancer it would require extremely high doses which do not occur in a realistic environment. This document refutes that contention.
54.	MONGLY06509236 10/21/2002	This document is an internal Monsanto summary of the "operator exposure when spraying Roundup under UK conditions." at *1. It provides an explanation of measuring the rate of Roundup absorption using the UK POEM (discussed in the above MONGLY04107778 document).	This document is relevant and reasonably likely to be used in this litigation as it pertains to the absorption of glyphosate and Monsanto's basis for measuring the rate of absorption to be in compliance with regulatory standards—a feature of general causation as Monsanto contests that Roundup and glyphosate can have adverse effects based upon negligible rates of absorption.
Regulatory & Government			
55.	MONGLY03293245	This document contains text-message correspondence between Mr. Daniel Jenkins, various Monsanto	This document is relevant and reasonably likely to be used in this litigation as it relates to Monsanto's

No	Bates	Description	Relevance
	2/11/2013 - 3/10/2016	employees, and various EPA officials regarding regulatory aspects of glyphosate. In reference to the United States Department of Agriculture, Mr. Jenkins comments: "might want to tell them we're going to need their support for glyphosate...We're in for a tough ride[.]" at *2. Mr. Jenkins also comments: "Jess is doing a nice job at EPA[.]" at *1. Jennifer Listello asks: "Is there anyone we can get to in EPA?" at *3. With regard to IARC, Mr. Jenkins comments: "Got john to agree to talk about how we might work together on changing IARC communication[.]" at *4-5. Mr. Jenkins asks Ms. Mary Manibusan (formerly EPA and co-chair with Jess Rowland on CARC publication): "do you know folks at ATSDR in HHS?" Ms. Manibusan responds: "Yes. Where specifically…on Tox profiles?" After Mr. Jenkins confirms, Ms. Manibusan responds: "I know lots of people. You can count o[n] me." Mr. Jenkins informs her that: "we're trying to do everything we can to keep from having a domestic IARC occur w this group. may need your help... I'll share some info, you tell me what you think we might be able to do, who you may know, etc ok?" to which Ms. Manibusan agrees. at *5. Mr. Jenkins also contacts Mr. Ty Vaughn: "I think we need to talk about a political level EPA strategy and then try to build a consensus plan w Michael on several fronts: glyphosate…we're not in good shape and we need to make a plan[.]" at *6. Following text messaging with Mr. Jack Housenger (EPA), Mr. Jenkins comments: "Spoke to EPA: is going to conclude that IARC is wrong. So is EFSA….pushed them to make sure atsdr is aligned, said they would…they're looking into getting a contact for me at cdc re bio monitoring" at *6-7.	collusion with EPA officials (subject of extensive general causation discovery), the attempt to preclude glyphosate review by ATSDR through EPA contacts, and strategies for addressing the general causation conclusion by IARC. It is also relevant to *Daubert*, since it undermines the reliability and purported "independence" of the EPA's evaluation of glyphosate. The document is also relevant to the credibility of Mr. Jenkins and other Monsanto personnel.
56.	MONGLY02060344	This document contains email correspondence between Jack Housenger, Director of the Office of Pesticide	The document is relevant and reasonably likely to be used in this litigation as it demonstrates

No	Bates	Description	Relevance
	6/24/2015	Programs (EPA), Daniel Jenkins (Monsanto), and Dr. William Heydens (Monsanto). Mr. Housenger reports to Mr. Jenkins that he has spoken to individuals at the Agency for Toxic Substances and Disease Registry (ATSDR), one of whom, the branch chief, Henry Abadin, "ended up saying that they would put glyphosate on hold holding the OPP risk assessment." at *2. Dr. Heydens acknowledges with respect to the ATSDR decision to not review glyphosate: "hopefully that keeps them from doing anything too stupid." at *1.	communications between Monsanto and regulatory agencies in furtherance of efforts to preclude evaluation of Roundup and glyphosate—a feature of general causation discovery in light of Mr. Jess Rowland's (also from the OPP) collusive relationship with Monsanto. Further, the document is relevant to *Daubert*, since it undermines the reliability and purported "independence" of the EPA's evaluation of glyphosate. The document is also relevant to credibility of Mr. Jenkins and Dr. Heydens.
57.	MONGLY03064695 6/5/2015 – 6/24/2015	This document contains email correspondence between various Monsanto personnel wherein Daniel Jenkins expresses concerns over the ATSDR glyphosate review and the information garnered from Mr. Housenger at the EPA's Office of Pesticide Programs regarding delaying the ATSDR review: "ATSDR Director and Branch Chief have promised Jack Housenger (Director of the US Office of Pesticide Programs) to put their report "on hold" until after EPA releases its preliminary risk assessment (PRA) for glyphosate… She describes ATSDR as being VERY conservative and IARC like in this regard as well as the fact that they are hazard based. Makes me very nervous, but I asked Jack whether or not he was worried about ATSDR coming out with something different and he said he wasn't and I think he was being genuine." at *1, 2.	This document is relevant and reasonably likely to be used in litigation as it indicates Monsanto's contacts with another EPA official, Jack Housenger (a key feature of general causation discovery in light of Mr. Rowland's collusive relationship with Monsanto) in furtherance of precluding glyphosate review by ATSDR which, according to Mr. Jenkins, utilizes a process similar to IARC and is thus likely to render a general causation evaluation adverse to Monsanto's commercial agenda. The document is also relevant to *Daubert*, since it undermines the reliability and purported "independence" of the EPA's evaluation of glyphosate and lends reliability to IARC's assessment. The documents are also relevant to credibility of Mr. Jenkins and Dr. Heydens.
58.	MONGLY02358772 4/1/2016 – 4/4/2016	This document contains an email correspondence between various Monsanto personnel wherein James M. Nyangulu writes to Dr. William Heydens about meeting with Jesudoss Rowland, formerly of the EPA's Office of Pesticide Programs (OPP): "I reached out to Jess Rowland this morning. He is willing to talk tomorrow, however he has back to back meetings from 9:30till 1.1.30 am. He has given me his cell phone	This document is relevant and reasonably likely to be used in this litigation as it reaffirms Monsanto's intimate relationship with Mr. Rowland. This issue has been the subject of extensive general causation discovery thus far and is one of the central features of this litigation as Monsanto's collusive relationship with Mr. Rowland encouraged a finding by the EPA that glyphosate is not a

No	Bates	Description	Relevance
		number for us to text him once we know what time we would like to meet him. He wanted to check with the Product Manager (PM) for MON102100 (not a good thing.... PM likely to deny the meeting). I discouraged him and hopefully he won't check with the PM." at *1.	carcinogen. Indeed, the document demonstrates that Monsanto leveraged its relationship with Mr. Rowland to circumvent the Product Manager's likely denial of such meeting. The document is also relevant to *Daubert*, since it undermines the reliability and purported "independence" of the EPA's evaluation of glyphosate. The documents are also relevant to the credibility of Dr. Heydens.
59.	MONGLY03859549 2/12/2016	This document contains email correspondence between various Monsanto personnel wherein Jeremy Stump discloses details of a meeting he and Mr. Jenkins had with EPA officials "Jim Jones and Jack Housenger earlier this afternoon." at *1. With respect to glyphosate, "They wouldn't give a clear answer on when they might announce SAB/P…We argued that they should wait on making any announcements given upcoming JMPR and possibly other gov't determinations." at *2. Mr. Heering responds: "Did they comment on the suggestion to wait on announcing the SAP/B until after JMPR and other country announcements?" at *1.	This document is relevant and reasonably likely to be used in this litigation as it demonstrates Monsanto's efforts through its relationships at the EPA to delay the Scientific Advisory Panel review of EPA's 2016 glyphosate Issue Paper. Monsanto's influence at the EPA in furtherance of regulatory approval of glyphosate through dissuading review has featured extensively in general causation discovery. The document is also relevant to *Daubert*, since it undermines the reliability and purported "independence" of the EPA's evaluation of glyphosate. The documents are also relevant to credibility of Mr. Stump, Mr. Jenkins, and Mr. Heering.
60.	MONGLY03878138 10/23/2015-10/26/2015	This document contains email correspondence between Daniel Jenkins (Monsanto) and Jack Housenger (EPA OPP) regarding "atsdr". Mr. Housenger informs Mr. Jenkins: "We met with cdc about a month ago. We talked about that. They are waiting for our glyphosate RA. And they agreed to share what they do." at *2. Mr. Jenkins forwards the communication to Mr. David Heering (Monsanto), who responds: "Thanks for the update. Let us know if there is anything we can do to help." at *1.	This document is relevant and reasonably likely to be used in this litigation as it demonstrates Monsanto's interactions with a key EPA official regarding ATSDR review of glyphosate. Mr. Housenger has acted as buffer between Monsanto and other regulatory agencies to delay/preclude glyphosate reviews and this document is further indication of such efforts given Mr. Housenger's meeting with the Center for Disease Control (CDC) regarding ATSDR and CDC glyphosate review. Monsanto's relationships with EPA officials has featured extensively in general causation discovery and this document is directly related to the collusion issue. The document is

No	Bates	Description	Relevance
			also relevant to *Daubert*, since it undermines the reliability and purported "independence" of the EPA's evaluation of glyphosate. The documents are also relevant to credibility of Mr. Jenkins, and Mr. Heering.
61.	MONGLY03550799, MONGLY03550800 8/9/2016	These documents contain a set of "talking points" in anticipation of Monsanto's meeting with EPA director Gina McCarthy. The talking points include: "There is already enough for EPA to act without a SAP"; "If she pushes back on reviews by other agencies Hugh needs to question her as to why they then considered IARC's flawed classification and again, why are you convening an SAP when your own internal scientists have confirmed the safety of glyphosate"; "Why is this being politicized?" at *2.	This document is relevant and reasonably likely to be used in this litigation as it demonstrates Monsanto's attempt to preclude a review by the Scientific Advisory Panel of the 2016 EPA glyphosate Issue Paper which offered a general causation carcinogenicity opinion regarding glyphosate. It also shows Monsanto's effort to discredit IARC to the EPA, so it goes to reliability issues.
62.	MONGLY02162507 1/15/2010 – 1/16/2010	This document is an email correspondence between Dr. Donna Farmer and Steven Levine discussing the EPA Endocrine Disruption Program. Mr. Levine remarks that "They have made Gary Timm from OSCP [Office of Science Coordination and Policy] the head of the program at EPA NOT Jess Roland from OPP. This is not a good development and dramatically cuts our chance our chance for success." at *1.	This document is relevant and reasonably likely to be used in this litigation as it confirms Monsanto's intimate relationship with Mr. Rowland from the EPA who assisted Monsanto in circumventing the regulatory process, a central feature of Plaintiffs' general causation discovery concerned with proving that that the safety of Roundup has not been assessed by an impartial Office of Pesticide Program at the EPA. The document is also relevant to *Daubert*, since it undermines the reliability and purported "independence" of the EPA's evaluation of glyphosate. The document is relevant to the credibility of Dr. Farmer and Mr. Levine.
63.	MONGLY03320237 10/7/2015	This document is a PowerPoint presented by Monsanto to the California Office of Environmental Health Hazard Assessment on October 7, 2015 regarding the imposition of a No Significant Risk Level (NSRL) for glyphosate as an exemption to the requirement under Proposition 65 that Roundup be labeled as known to	This document is relevant and reasonably likely to be used in this litigation as it demonstrates efforts by Monsanto to limit OEHHA's consideration of data in determining the appropriate NSRL to animal bioassays with high exposure doses, thus leading to the calculation of a high NSRL. An

No	Bates	Description	Relevance
		the State of California to cause cancer following adoption by California of IARC's classification.	exemption from the Proposition 65 labeling requirement would mean that Monsanto are able to avoid the practical effects (having to label Roundup as known to the state to cause cancer) of IARC's general causation conclusion as adopted by OEHHA under proposition 65. The document also contains admissions by Monsanto about whether glyphosate can cause cancer.
64.	MONGLY01061857 2/18/2009 – 2/22/2009	This document contains email correspondence between various Monsanto personnel wherein Richard Garnett states the following with respect to gaining favorable regulatory assessment using in-vitro data: "Cannot win the battle on science alone (40% science : 60% politics) - need an experimental front, supported by a critical review of the literature, and a communication campaign to promote the message. Goal: 'the regulatory authority must have no doubts'". at *1.	This document is relevant and reasonably likely to be used in this litigation as it evinces the strategy adopted by Monsanto to overcome regulatory hurdles using the effective deployment of political influence to ensure that regulatory authorities "have no doubts" regarding the safety of glyphosate. Indeed, the extent to which Monsanto leveraged its intimate relations with regulatory officials to support the position that glyphosate is not carcinogenic has been an important feature of general causation discovery. The document is also relevant to *Daubert*, since it undermines the reliability and purported "independence" of the EPA's evaluation of glyphosate.
65.	MONGLY01179968 3/30/2015 – 7/1/2015	This document contains email correspondence between Monsanto and former EPA Office of Pesticide Programs employee, Mary Manibusan (now Exponent employee). Ms. Manibusan discusses her role as "co-chair with Jess Rowland" on the EPA CARC report; "lead toxicologist on a global pesticide review"; and service "on multiple internal review committees" in an attempt to "offer any assistance to support Monsanto product registrations and registration reviews" at *3.	This document is relevant and reasonably likely to be used in this litigation as it relates to Monsanto's relationships with former EPA officials that were involved in producing the CARC report partially authored by Mr. Jess Rowland—a report which concluded that it is biologically improbable for glyphosate to act as a human carcinogen. Indeed, Mr. Rowland, the circumstances of the CARC assessment, and the role of EPA officials following their tenure at the agency has featured extensively in general causation discovery. This document lends support to the allegation that EPA officials, after aiding Monsanto at the agency,

No	Bates	Description	Relevance
			would then leave EPA and start working for Monsanto or its allies.
66.	MONGLY03316369 3/24/2015	This document is titled: "IARC Follow Up Demonstrating Safety of Glyphosate" and details a number of goals including "invalidate relevance of IARC"; "prevent future bad IARC decisions on pesticides/GMOs"; and "Make sure determination doesn't get more widely adopted within WHO". at *1.	This document is relevant and reasonably likely to be used in this litigation as it confirms Monsanto's intention to discredit an international research agency which rendered a general causation carcinogenicity opinion that was adverse to Monsanto's commercial agenda.
67.	MONGLY03327609 3/25/2015 – 4/27/2015	This document contains email correspondence between various Monsanto employees regarding the organization of a panel in collaboration with the International Consortium on Applied Bioeconomy Research (ICABR). Mr. Eric Sachs (Monsanto) proposes to "call Jess Rowland tomorrow" in order to enquire about Mr. Rowland's availability as a panelist addressing "regulators more robust risk assessment process". at *1. The panel was initiated in light of the "recent publicity about Round-up and cancer…" at *10.	This document is relevant and reasonably likely to be used in this litigation as it pertains to Monsanto's relationship with Mr. Rowland (subject of extensive discovery during general causation stage) and efforts by Monsanto to address the general causation conclusion by IARC. The document is also relevant to *Daubert*, since it undermines the reliability and purported "independence" of the EPA's evaluation of glyphosate.
68.	MONGLY03379079 2/2/2016	This document contains email correspondence between Monsanto regulatory affairs employee Mr. Daniel Jenkins and members of Croplife America wherein Mr. Jenkins informs Ms. Janet Collings (Croplife) that Monsanto has been urging the EPA to not convene the Scientific Advisory Panel to review the EPA's 2016 glyphosate issue paper: "Find it troubling that he's saying it publicly, as we are urging them not to. It's a very bad move to be so equivocal, especially when EFSA is so definitive and hopefully JMPR will be soon too." at *2.	This document is relevant and reasonably likely to be used in this litigation as it shows Monsanto pressuring the EPA to preclude review of the issue paper which found it biologically improbable that glyphosate is a human carcinogen. Monsanto's role with respect to the EPA and influence at the agency has been subject of extensive discovery during the general causation stage and this document is a further reflection of Monsanto's motives for leveraging its relationship with the EPA to dissuade repeated examination of glyphosate. The document is also relevant to *Daubert*, since it undermines the reliability and purported "independence" of the EPA's evaluation of glyphosate. The document also goes to the credibility of Mr. Jenkins.

No	Bates	Description	Relevance
69.	MONGLY02953363 6/5/2015	This document contains a forwarded email which outlines Monsanto's regulatory strategy with respect to "addressing widespread confusion in the wake of the IARC classification…" at *1. "Recent Actions" include "significant outreach within the U.S. government to secure its engagement with the WHO in an effort to obtain that clarification. We have briefed key staff at EPA, USTR, USDA and the State Department as well as members of Congress." at *2.	This document is relevant and reasonably likely to be used in this litigation as it demonstrates Monsanto's lobbying activities through the U.S. government in order to pressure the WHO to "clarify" the IARC classification. Monsanto's governmental influence has featured extensively in general causation discovery and motions practice and this particular effort is directed at influencing the organization which offered a general causation carcinogenicity conclusion with respect to glyphosate carcinogenicity. The document is also relevant to *Daubert*, since it undermines the reliability and purported "independence" of the EPA's evaluation of glyphosate.
70.	MONGLY02056568 3/10/2016 – 4/22/2016	This document contains email correspondence between various Monsanto personnel wherein Dr. Goldstein entertains the prospect of a "glyphosate symposium", which is "acceptable but direct Monsanto support would likely be a bad idea." at *1. The full proposal from Allister Vale begins on the second page and it is explicitly stated that "[f]unding via the Glyphosate Consortium would be a way of taking this kind of meeting forward. Given the hands off arrangement you mention I am confident it would be possible to put together a team of clinical / medical toxicologists to be primarily responsible for the organization. However, to make this work, neither I nor they could be in receipt of direct funding from Monsanto or the Glyphosate Consortium." at *2.	This document is relevant and reasonably likely to be used in this litigation as it demonstrates Monsanto's involvement and financial support of glyphosate research initiatives without disclosing Monsanto's interest. Such research initiatives propagate scientific discourse about glyphosate which is relied upon by researchers when formulating causation opinions. Such evaluations will thus not be able to weigh the conflicts of interest inherent in the data—an issue related to determining whether it is biologically plausible for glyphosate to act as a human carcinogen. The reliability of scientific literature and consensus, especially consensus built on manipulation, is highly relevant to the issue of general causation.
71.	MONGLY03401522 3/29/2016 – 4/6/2016	This document contains email correspondence between various Monsanto personnel wherein David Carpintero discusses the French ban of Roundup tallowamine surfactant: "We are expecting the letter of intention from French regulator ANSES very soon, and it might point to 'imminent health risk' regarding the use of tallowamine. We do not agree with the withdrawal but	This document is relevant and reasonably likely to be used in this litigation as it relates to a regulatory agency concluding that it is biologically plausible for Roundup to pose a health risk. This document relates directly to general causation.

No	Bates	Description	Relevance
		we will abide. We simple would need the argumentation for the ban/withdrawal to not be based on 'human health' but other on considerations like precautionary principle. The consequences of this ban if referring to human health risks have the potential to go beyond France and would potentially have global and trade impact. It is therefore of essence that any intention to ban does not refer to imminent human health risk." at *2.	
72.	MONGLY02913526 2/23/2015	This document details a number of goals to be pursued by Monsanto prior to and following the anticipated IARC decision. Under "Post-IARC", the following objective is identified: "Orchestrate Outcry with IARC Decision [around] March 10, 2015". at *5.	This document is relevant and likely to be used in this litigation as it demonstrates Monsanto's intention to discredit IARC prior to the 2A classification. Following the classification, Monsanto galvanized a campaign to discredit and defund an international research agency which rendered a general causation carcinogenicity opinion and found that it is biologically probable for glyphosate to act as a human carcinogen.
73.	MONGLY03558820 4/28/2016 – 7/6/2016	This document contains email correspondence between various Monsanto employees wherein John Lynch states: "To date I have eight industry associations, plus CropLife Canada, who have expressed interest in engaging in further discussions on how to collaborate as a more substantial critical mass, representing a significant chunk of Canada's GDP and innovation investments, to capture the attention of the federal government and encourage an approach to motivate IARC to make adjustments to their current inappropriate practices." at *2.	This document is relevant and reasonably likely to be used in this litigation as it demonstrates efforts by Monsanto to leverage political influence in an attempt to impact the procedures of a research agency (IARC) which arrived at a general causation opinion adverse to Monsanto's commercial agenda.
74.	MONGLY03315608 10/5/2015	This document contains email correspondence between various Monsanto personnel wherein it is stated: "As discussed on the weekly glyphosate call, the first two post-IARC glyphosate personal injury lawsuits in the U.S. were filed in late September. One case was filed	This document is relevant and reasonably likely to be used in this litigation as it indicates that Monsanto has long expected litigation over glyphosate causing cancer, suggesting an understanding that information Monsanto had

No	Bates	Description	Relevance
		in New York and another in California. We had anticipated such litigation for some time." at *2.	internally assessed indicated a glyphosate or Roundup carcinogenicity risk.
75.	MONGLY00947788 2/25/2015	This document contains a list of studies/articles/reports relied upon by both IARC and Monsanto in supporting and challenging the "2A Probable Human Carcinogen" classification respectively.	This document is relevant and reasonably likely to be used in this litigation as it indicates the scientific literature assessed by IARC and relied upon by Monsanto in discrediting the IARC general causation conclusion.

EXHIBIT B

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May 8, 2017

VIA E-Mail
Heather Pigman, Esq, - hpigman@hollingsworthllp.com
James Sullivan, Esq. - jsullivan@hollingsworthllp.com

RE: URGENT—Challenging the Confidentiality of Documents Related to the California Office of Environmental Health Hazzard Assessment's Evaluation of a Safe Harbor for Glyphosate

Dear Heather & Jim,

Pursuant to the Court's December 9, 2016 (Dkt. 64) and March 13, 2017 (Dkt. 186) Orders, Plaintiffs formally challenge the confidentiality designations of the forty-two documents listed on **Exhibit A**. Our specific challenge to each designation is that none of the documents on **Exhibit A** contain confidential, proprietary, or trade secret information and therefore none of the documents warrant a confidentiality designation. As you know, the Office of Environmental Health Hazzard Assessment (OEHHA) is presently soliciting comments on a proposed regulatory amendment to Title 27 of the California Code of Regulations, Section 25705(b), establishing for a safe harbor for glyphosate exposure. Today was the deadline to request a hearing and the deadline to submit comments is May 22, 2017. Today, my law firm, as well as several other law firms, requested a hearing.

Because the MDL counsel represent dozens if not hundreds of California residents and citizens who have developed cancer as a result of Roundup and glyphosate exposure, we have a specific interest in accurately expressing our clients' views and interests to OEHHA. Additionally, throughout this litigation, Monsanto has raised issues about exposure levels and their relationship to general causation. While we do not necessarily agree that exposure level relates to general causation, Monsanto has claimed so and since OEHHA is expressing a regulatory view about that very issue, OEHHA's determination and comment period are potentially relevant to this phase of the litigation. Nonetheless, regardless of any relationship to general causation, due to the time-sensitive nature of OEHHA's determination—a determination that could potentially affect our clients' rights after the general causation phase—we have an obligation to present our client's interests on this important issue relating to public health.

The forty-two documents listed on **Exhibit A** all relate to the issues currently before OEHHA and they all are labeled, inappropriately, as Confidential. To present an accurate, balanced, and fair comment on our clients' behalf, we seek to submit these documents along with other commentary to inform OEHHA about issues it has not considered in evaluating the safe harbor level for glyphosate for the State of California. Since these documents do not contain any trade secrets and relate both to the primary focus of this MDL and an issue potentially affecting

the rights of plaintiffs, we ask that Monsanto immediately withdraw its improper confidentiality designations.

Please advise by **Wednesday, May 10, 2017 at 4:00 pm PDT** if Monsanto agrees to de-designate these forty-two documents. I am happy to go through each of these documents with you tomorrow if you would like to meet-and-confer on them, just let me know when and I will make myself available. If Monsanto refuses to withdraw the improper confidential designations, we will raise this issue with the Court and request an expedited briefing schedule on the confidentiality of these documents—prior to the expiration of the May 22, 2017 comment deadline.

Sincerely,

ANDRUS WAGSTAFF, PC

/s/ Aimee H. Wagstaff
Aimee H. Wagstaff

MDL 2714, Plaintiffs' Co-Lead Counsel

CC via E-mail: Robin Greenwald, Esq, Michael Miller, Esq.
Eric Lasker, Esq., Joe Hollingsworth, Esq.

EXHIBIT A

No.	Description	Bates
Dermal/Exposure Internal Documents		
1	1/16/2011 Email from Richard Garnet regarding Glyphosate Repeat Dose ADME	MONGLY06731019-1022
2	1/31/2011 email from Kevan Richardson regarding Glyphosate EU Re-Reg	MONGLY01160109
3	11/1/1983 report re: Glyphosate Plasma and Bone Marrow Levels Following Intraperitoneal Injection	MONGLY04268319-9324
4	11/12/2008 email from Christopher Gustin regarding Comparison of GLY Monkey studies	MONGLY02155826-5831
5	4/11/1983 report re: Elimination and Dermal Penetration in Monkey's, MA-081-349 (Report attached)	MONGLY01330781-0783; Report – MONGLY02142251-265
6	7/4/2008 email from William Graham regarding Modeling of Plasma levels	MONGLY02285700
7	11/24/2003 email from Donna Farmer regarding Agitation against Roundup- "cannot say that Roundup is not a carcinogen."	MONGLY00922458-2460
8	Surfactant Issue Analysis	MONGLY01700591-0592
9	Ethylene Glycol in glyphosate	MONGLY01745304
10	3/8/2002 Email regarding in Vitro dermal study - - - - Monsanto response to the concern of the Slovenian authorities on the composition of the Plant Protection Product MON 79376 (360 g/l glyphosate) and the surfactant MON 59117 (CAS n6847896-6)	MONGLY06409924-9927 MONGLY02817577-7584
11	Email from Richard Garnett re: MON 59117 GI tract study; "more glyphosate absorption than expected."	MONGLY06424476-4478
12	4/25/2000 email from Stephen Wratten re; Glyphosate dermal penetration	MONGLY03735338-5339
13	4/2/2002 email from William Heydens re: TNO dermal penetration studies: new issues and topics for the conf. call of Tuesday 2, April	MONGLY03738295
14	4/5/2002 email from Stephen Wratten regarding TNO dermal penetration studies	MONGLY03737014-7016
15	8/21/2002 email from Fabrice Broeckaert re: TNO Draft report	MONGLY00888421-8422
16	6/14/2002 fax from Johan Van Burgsteden re: Study 4478, Unaudited draft report	MONGLY00888353-8388
17	The UK Predictive Operator Exposure Model (POEM)	MONGLY06293737
18	Glyphosate acid – In Vitro Absorption through Abraded Rabbit Sin using C-glyphosate	MONGLY01284534 -4570

19	9/15/2009 email from Christophe Gustin regarding nude mouse model	MONGLY02804480 -4482
20	8/23/2011 email from Christophe Gustin regarding Dermal penetration study argumentation for applicability to MON 79991	MONGLY04107778- 7779
21	4/10/2003 email from Richard Garnett regarding Glyphosate penetration through gloves	MONGLY06401072-1075
22	10/29/1988 letter from EPA to Monsanto regarding Glyphosate products request for postponement of additional requirements for protective clothing	MONGLY00223577-3581
23	1/23/2015 Acquavella stating that other ingredients in roundup are relevant for judging glyphosate	ACQUAVELLAPROD00008909
24	8/14/2003 email from Fabrice Broeckaert regarding K salt of glyphosate by inhalation	MONGLY06722565-2566
25	6/17/2001 email from Richard Garnett regarding droplet sizes for Rup formulations	MONGLY06388557-8558
26	8/11/2003 email from Mark Martens regarding K-salt of Glyphosate	MONGLY06722561-2564
27	10/19/2009 email from David Saltmiras re: Manuscript: Toxicokinetics of Glyphosate & AMPA in rats	MONGLY02159396-9399
28	Exposure Estimate refinements	MONGLY05795088-5124
29	Absorption, Distribution and Excretion Study Summaries	MONGLY01526625-6647
30	Summary of NSRL Data	MONGLY03099501
31	NSRL Levels	MONGLY01529788
32	NSRL Calculations	MONGLY01307561
33	Meeting with OEHHA	MONGLY02914477
34	CLH Report	MONGLY02319393
35	Chronic Dietary Assessment (Glyphosate Exposure Assessment for Prop 65)	MONGLY03682041
Microbiota/Shikimate Pathway		
36	Discussion of raising AOEL (“careful not create new issues”)	MONGLY04188925
37	1/3/2013 Email from Gary Hartnell- “surfactant can have effect”	MONGLY02811375
38	1/4/2013 Response to Shehata- discussing various issues of gut microbiota	MONGLY02246128
39	6/8 2000- lack of knowledge about microflora	MONGLY01140172
40	2/27/97- Donna Farmer admits to effect of glyphosate on mammalian cells in culture	MONGLY00976696
41	3/10/2005- Issues with effects on shikimate pathway	MONGLY00923951
42	4/15/2015- Goldstein on gut microbes	MONGLY00901786

EXHIBIT C

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

MAY 31 2017

The Honorable Ted W. Lieu
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Lieu:

Thank you for your May 19, 2017, letter to the U.S. Environmental Protection Agency (EPA's) Office of Inspector General (OIG) requesting an investigation into reports that an EPA employee may have colluded with Monsanto to conduct a biased review of glyphosate.

As you are aware, there is considerable public interest regarding allegations of such collusion. As a result, I have asked the EPA OIG Office of Investigations to conduct an inquiry into several agency glyphosate review-related matters. Your letter has been forwarded to the EPA OIG Office of Investigations for inclusion and consideration.

Following the completion of the review, we will notify your staff and prepare the appropriate response to your concerns.

We appreciate your interest in the work of the EPA OIG. If you have any questions regarding this or any other matter, please contact Alan Larsen, Counsel to the Inspector General, at (202) 566-2391.

Sincerely,

Arthur A. Elkins Jr.

EXHIBIT D

MONSANTO

MONSANTO COMPANY
800 N. LINDBERGH BLVD.
ST. LOUIS, MISSOURI 63167
PHONE: (314) 694-1000
http://www.monsanto.com

June 20, 2017

Via E-Mail and Federal Express

Carol Monahan-Cummings
Chief Counsel
California Office of Environmental
Health Hazard Assessment
1001 I Street
Sacramento, CA 95812

Re: Petition for Reconsideration of the Proposition 65 Listing of Glyphosate Pursuant to the Labor Code Mechanism

Dear Ms. Monahan-Cummings:

Monsanto Company ("Monsanto") submits this petition pursuant to 27 Cal. Code Regs. § 25904(e) and Government Code § 11340.7 to request that the California Office of Environmental Health Hazard Assessment ("OEHHA") refrain from adding glyphosate to the list of chemicals "known to the state to cause cancer" for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"). As described herein, OEHHA originally proposed to list glyphosate based on a determination by the International Agency for Research on Cancer ("IARC") that glyphosate is a "probable carcinogen." It recently was revealed, however, that key scientific data were not disclosed to the IARC working group that considered glyphosate and that these data would have affected IARC's analysis. This new information calls into question the validity of the IARC determination and, consequently, OEHHA's reliance on that determination to list glyphosate under Proposition 65. Accordingly, Monsanto respectfully requests that OEHHA reconsider its decision to list glyphosate.

I. OEHHA's Listing of Glyphosate Pursuant to the Labor Code Mechanism.

OEHHA's decision to list glyphosate is based on the so-called Labor Code mechanism, which provides that the Proposition 65 "list shall include at a minimum those substances identified by reference in Labor Code Section 6382(b)(1) and those substances identified additionally by reference in Labor Code Section 6382(d)." Health & Safety Code § 25249.8(a). Section 6382(b)(1) of the Labor Code, in turn, identifies by reference "[s]ubstances listed as human or animal carcinogens by the International Agency for Research on Cancer (IARC)." OEHHA's implementing regulations further provide that "[a] chemical or substance shall be included on the [Proposition 65] list if it is classified by [IARC] in its IARC Monographs series on the Evaluation of Carcinogenic Risks to Humans . . . as: . . . (2) Probably carcinogenic to humans (Group 2A) with sufficient evidence of carcinogenicity in experimental animals. . . ." 27 Cal. Code Regs. § 25904(b).

On September 4, 2015, OEHHA provided notice of its intent to list glyphosate pursuant to the Labor Code mechanism.[1] OEHHA explained that glyphosate meets the criteria for listing because IARC classified glyphosate as Group 2A ("probably carcinogenic to humans") and concluded that there was sufficient evidence of carcinogenicity in experimental animals. On March 28, 2017, OEHHA announced that it had determined that glyphosate would be added to the list of chemicals known to the state to cause cancer for purposes of Proposition 65 pursuant to the Labor Code mechanism.[2] OEHHA's announcement stated that the effective date of the proposed listing "will be determined following a decision from the Court of Appeal regarding a request for a stay in the pending case *Monsanto v OEHHA*." On June 15, 2017, the Court of Appeal denied the request for a stay, but the next day Monsanto filed a request for a stay with the California Supreme Court, which request is pending.

II. Recently Discovered Information Renders the IARC Determination Invalid.

New information has come to light that calls into question the validity of IARC's determination that glyphosate is a "probable carcinogen." In particular, Dr. Aaron Blair, Chair of the IARC working group that considered glyphosate, recently revealed in sworn deposition testimony that he failed to disclose to other working group members unpublished scientific data that showed no evidence of a link between glyphosate and cancer. *See* Blair Depo. Tr. (Exhibit A) at pp. 172-183. Dr. Blair admitted that the undisclosed data would have altered IARC's analysis. *Id* ; *see also* Reuters, *Cancer Agency Left in the Dark Over Glyphosate Evidence* (June 14, 2017) (attached as Exhibit B); Mother Jones, *A Scientist Didn't Disclose Important Data — and Let Everyone Believe a Popular Weedkiller Causes Cancer* (June 15, 2017) (attached as Exhibit C). The data in question were developed as part of the Agricultural Health Study ("AHS"), one of the largest epidemiological studies to examine the effects of pesticide use on agricultural workers, farmers, and their families. A March 2013 draft of the study is attached as Exhibit D.

Specifically, in March 2017, Dr. Blair was deposed in connection with personal injury claims asserted against Monsanto related to allegations that Monsanto's glyphosate-based products cause cancer. During the deposition, Dr. Blair testified under oath that:

1. The new AHS data found "no evidence of association between exposure to glyphosate and non-Hodgkin lymphoma," Blair Depo. Tr. (Exhibit A) at 172:11-15;

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[1] OEHHA, *Notice of Intent to List Chemicals By the Labor Code Mechanism Tetrachlorvinphos, Parathion, Malathion, Glyphosate* (Sept. 4, 2015), *available at* https://oehha.ca.gov/proposition-65/crnr/notice-intent-list-tetrachlorvinphos-parathion-malathion-glyphosate.

[2] OEHHA, *Notice to Interested Parties, Chemical to Be Listed as Known to the State of California to Cause Cancer Glyphosate* (posted March 28, 2017), *available at* https://oehha.ca.gov/proposition-65/crnr/glyphosate-be-listed-under-proposition-65-known-state-cause-cancer.

2. At the time he was Chair of the IARC working group that considered glyphosate and a member of the epidemiology subgroup, Dr. Blair was aware of the AHS data from the 2013 study, which included four times as much data as a prior AHS study published in 2005, *id.* at 177:13-25;

3. He did not disclose the existence of the larger AHS dataset to other members of the glyphosate working group or epidemiology subgroup, *id* at 178:1-7; and

4. If IARC had used the larger AHS dataset from 2013, it would have impacted IARC's analysis. In particular, Dr. Blair testified that "[t]he relative risk for the AHS study would have been lower," and the meta-analysis that the IARC working group found to be just barely statistically significant in March 2015 probably would not have shown an increased risk of cancer with exposure to glyphosate. *Id* at 182:16-183:17.[3]

Separately, on May 3, 2017, the Chair of the IARC working group subgroup on animal toxicology, Dr. Charles Jameson, testified under oath that:

1. The initial assessment of his subgroup of experts in animal toxicology was that the animal data was "limited," Jameson Depo. Tr. (Exhibit E) at 206:1-20;

2. The IARC staff failed to make available to his subgroup a published paper containing tumor data from 14 glyphosate cancer bioassays, *id.* at 179:10-180:10; and

3. The full working group did not consider that data at the IARC meeting even when it was finally presented because "the amount of data in the tables was overwhelming," *id.* at 191:12-192:8.

This new information undermines the IARC working group's prior determination in March 2015 that glyphosate is a probable carcinogen. That finding was based on review of incomplete and inadequate epidemiological and animal data given the information (both published and unpublished) that was and/or should have been available to the working group at the time of its review. Accordingly, IARC's determination that glyphosate is a "probable carcinogen" is invalid and should not be relied upon by OEHHA to list glyphosate under Proposition 65.

III. At a Minimum, the Uncertainty Surrounding IARC's Classification of Glyphosate Should Cause OEHHA to Delay the Listing in Order to Avoid Unwarranted Consequences.

It has been reported that a draft paper analyzing the results of the larger AHS dataset should be submitted to an appropriate scientific publication later this year, with publication following that time. Furthermore, in response to these revelations, IARC has stated that "IARC

[3] Four pages of Dr. Blair's deposition are deemed confidential pursuant to a protective order in the personal injury litigation and hence are removed from Exhibit A.

can re-evaluate substances when a significant body of new scientific data is published in the openly available scientific literature." *See* IARC, *IARC Responds to Reuters Article of 14 June 2017*, available at http://governance.iarc.fr/ENG/Docs/IARC_responds_to_Reuters_15_June_2017.pdf (last visited June 20, 2017).

OEHHA is well aware of the significance of glyphosate and the adverse consequences that will ensue if glyphosate is listed incorrectly. Many of those consequences will persist even if glyphosate is removed from the list at a later date, whether by action of a court or OEHHA (including by OEHHA in response to an action by IARC). The Declarations of Drs. David Heering and David Stewart, attached hereto as Exhibits F and G, respectively, detail these potential consequences for Californians.

OEHHA need not agree that the IARC determination is invalid in order to reconsider its listing of glyphosate. There is significant uncertainty surrounding both the propriety of IARC's classification and the scientific basis for it, as well as whether that classification will withstand scrutiny once the larger AHS study is published. To avoid the adverse consequences of listing glyphosate, OEHHA should at the very least delay its listing pending IARC's reconsideration of this substance in light of the strong scientific evidence that was not made available to the IARC working group that improperly classified glyphosate as a probable human carcinogen.

IV. Conclusion

For these reasons, OEHHA should reconsider its decision to list glyphosate pursuant to the Labor Code mechanism and should not add glyphosate to the Proposition 65 list.

Respectfully,

Monsanto Company

By: _____
Dr. Philip W. Miller
Vice President, Global Corporate Affairs

Enclosures