

**IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI**

EARL NEAL, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 1722-CC10773
)	
)	Division No. 12
)	
MONSANTO COMPANY,)	
)	
Defendant.)	

**MONSANTO COMPANY’S RESPONSE IN OPPOSITION TO
PLAINTIFFS’ MOTION *IN LIMINE* NO. 20 TO EXCLUDE ANY
TESTIMONY OR REFERENCE TO DEFENDANT’S “GOOD ACTS” OR
REFERENCES TO COMMUNITY SERVICE BY DEFENDANT’S
CURRENT OR FORMER EMPLOYEES, MANAGERS, CONSULTANTS,
EXPERTS, AGENTS, OR FIDUCIARIES**

Plaintiffs move to preclude Defendant Monsanto “from commenting, arguing, or otherwise introducing evidence of its ‘good acts’ in St. Louis and other communities around the United States as well as references to community service by Defendant’s current and former employees, managers, consultants, experts, agent, and fiduciaries.” *See* Pls’ Mot., p. 1. Yet Plaintiffs claim that Monsanto and its employees and agents acted with malice or reckless indifference in making and distributing Roundup. *See* First Amended Petition, 04/04/19, at ¶ 738 (“Defendant’s reckless conduct therefore warrants an award of punitive damages.”); *see also id.*, Count VIII, ¶¶ 769-774 (“As a direct and proximate result of the willful, wanton, malicious, evilly motivated and/or reckless conduct of Defendant, the Plaintiffs have sustained damages as set forth above.”). In light of these allegations, Monsanto is entitled to put forth mitigating evidence supporting its good character. Indeed, this very Court denied a substantially identical motion *in limine* in the *Wade* case. *See* Order, 01/22/2020, *Wade, et al. v. Monsanto, et al.*, Case No. 1722-CC00370 (Mo. Cir. Ct. St. Louis City), p. 2, attached as Exhibit A.

Missouri courts routinely permit defendants to admit evidence tending to mitigate punitive damages. *See, e.g., Maugh v. Chrysler Corp.*, 818 S.W.2d 658, 662 (Mo. App. 1991); *Cohen v. Express Fin. Services, Inc.*, 145 S.W.3d 857, 868 (Mo. App. 2004) (“[T]he jury was free to consider the conduct of the appellant's new sales manager when assessing punitive damages...”). And in assessing mitigation of punitive damages, the defendant’s character is a factor that a jury may consider. *See, e.g., Maugh*, 818 S.W.2d at 662 at n.2; *Holcroft v. Missouri-Kansas-Texas R. Co.*, 607 S.W.2d 158, 164 (Mo. App. 1980); *Carpenter v. Chrysler Corp.*, 853 S.W.2d 346, 365 (Mo. App. 1993) (citing *Maugh* for the proposition that character may be considered when mitigating punitive damages). Corporate character may be shown, in part, by evidence of good or charitable acts in the community.

Therefore, the Court should deny Plaintiffs’ Motion *in Limine* No. 20, and Monsanto should be allowed to offer evidence to rebut claims that Monsanto acted with malice or was recklessly indifferent to the safety of this community and its customers.

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CERTIFICATE OF SERVICE

I hereby certify that on March 11, 2022, the foregoing was electronically filed with the Clerk of the Court for the City of St. Louis, Missouri using Missouri Case.Net which sent notification of such filing to all persons listed in the Court's electronic notification system.

/s/ Erik L. Hansell