

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

EARL NEAL, *et al.*,

Plaintiffs,

v.

MONSANTO COMPANY,

Defendant.

Case No. 1722-CC10773

Division No. 12

**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 AND MEMORANDUM OF POINTS AND AUTHORITIES**

PLEASE TAKE NOTICE that, on a date and time set by the above-captioned Court or as soon thereafter as the matter may be heard before Judge Michael Mullen, Circuit Court Judge, in the 22nd Circuit Court, Plaintiffs will and hereby move *in limine* to exclude any testimony or reference of Defendants' "good acts" or references to community service by Defendant's current or former employees, managers, consultants, experts, agents, or fiduciaries.

This motion *in limine* is based on this notice of motion, supporting memorandum, all pleadings and papers on file in this matter, and such further oral and documentary evidence and papers as the Court may consider at the time of the hearing.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The Court should preclude Defendant Monsanto and its parent company Bayer) 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.

II. ARGUMENT

Monsanto's website includes information regarding its "Community Outreach," where it references the "philanthropic arm" of the company and states that "Monsanto employees generously donate more than 100,000 hours annually to support local communities."¹ Any testimony or argument regarding Monsanto's charitable donations and support for local communities is irrelevant to the issues of the case and would be introduced solely to improperly garner favor with the St. Louis residents that make up the jury.

Defendant's prior acts of public benefit such as charitable donations and community support introduced for the purpose of conveying a "good company" reputation is irrelevant and unduly prejudicial.

In Missouri, reputation evidence is available to rehabilitate a witness in either a civil or criminal case *only* when the witness has been impeached by bad reputation evidence or by some form of impeachment that suggests corruption on the part of the witness. As with any other type of evidence offered to rehabilitate a witness, such evidence is only admissible after the witness has been impeached based on his or her reputation. Efforts to bolster the witness before impeachment or in the absence of impeachment are improper and inadmissible. *Haynam v. Laclede Elec. Co-op, Inc.* 827 S.W.2d 200, 205 (Mo. banc 1992)(citing *Mo. Evidence Restated*, §§ 404, 608 (Mo. Bar 1984); *State v. Alexander*, 620 S.W.2d 380, 383 (Mo. banc 1981)).

Furthermore, philanthropic good deeds and other bolstering activity attributable to current and former employees, managers, consultants, experts, agents, and fiduciaries of Defendants simply have no bearing on this lawsuit against Defendants regarding Roundup.

¹ <https://www.monsanto.com/company/outreach/>

Evidence or argument of this nature is improper and inadmissible because (1) it is not relevant to any issue to be decided in this case; and (2) the probative value of such evidence is substantially outweighed by the risk of unfair prejudice, confusing the issues, and misleading the jury.

If, however, the Court permits defendants to introduce testimony of its “good acts” Plaintiffs must be entitled to rebut that evidence. The introduction of good reputation evidence “opens the door to Plaintiffs’ evidence which would put such conduct into context.” *In re Prempro Prod. Liab. Litig.*, No. 4:03CV1507-WRW, 2006 WL 3806391, at *1 (E.D. Ark. Dec. 27, 2006)(finding that in presenting an overview of the company, defendant should be very conservative or they will open the door to contrary evidence). This will necessarily lead to time-consuming testimony on tangential issues and is likely to confuse or distract the jury. The Court should therefore preclude this testimony.

III. CONCLUSION

Wherefore, Plaintiffs respectfully ask this Court to grant Plaintiffs’ motion in its entirety to exclude any argument or reference to Defendant’s “good acts” or references to community service by Defendant’s current or former employees, and for such further and other relief as this Court deems appropriate.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was filed and served upon all counsel of record this 28th day of February 2022, by way of the Missouri ECF system.

/s/Mark R. Niemeyer