

No. 21-10994

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

JOHN CARSON
Plaintiff-Appellant,

v.

MONSANTO COMPANY,
Defendant-Appellee

On Appeal from the United States District Court
for the Southern District of Georgia,
No. 4:17-cv-00237-RSB-CLR (Baker)

MOTION FOR LEAVE TO FILE LETTER BRIEF

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John Carson vs. Monsanto Co. Appeal No. 21-10994
U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

**CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT (CIP)**

Pursuant to Federal Rules of Appellate Procedure 26.1 and 27 and Eleventh Circuit Rules 26.1-1, and 27-1(a)(9), undersigned counsel for Edwin Hardeman, Alva Pilliod, and Alberta Pilliod certifies that to their knowledge the following persons or entities not yet disclosed by the parties to this action may have an interest in the outcome of this appeal:

1. Edwin Hardeman, who is a plaintiff with an appeal pending before the United States Court of Appeals for the Ninth Circuit where Appellee Monsanto Company is the Appellant;
2. Alva Pilliod, who is a plaintiff with an appeal pending before the California Court of Appeals where Appellee Monsanto Company is the Appellant;
3. Alberta Pilliod, who is a plaintiff with an appeal pending before the California Court of Appeals where Appellee Monsanto Company is the Appellant;
4. David J. Wool, Counsel for Edwin Hardeman;
5. R. Brent Wisner, Counsel for Alva Pilliod and Alberta Pilliod;
6. Jennifer A. Moore, Counsel for Edwin Hardeman.

Respectfully submitted,

/s/ David Wool _____

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MOTION FOR LEAVE TO FILE LETTER BRIEF

Edwin Hardeman, Alva Pilliod, and Alberta Pilliod, by counsel, move for leave to file the attached letter and accompanying declaration in *Carson v. Monsanto Co.*, No. 21-10994.

1. The issues raised in the attached letter brief and accompanying declaration address the “settlement” agreement between the Appellant and Appellee in *Carson*, which directly impacts the justiciability of this appeal. Indeed, as explained in the attached letter and accompanying declaration, the *Carson* appeal is being prosecuted in bad faith. The Appellee (Monsanto) is paying the Appellant (Carson) to appeal a decision that the Appellee already won in the District Court because the Appellee is hoping to secure favorable appellate precedent in this Court. This pay-to-appeal scheme is fundamentally improper and must be brought to the Court’s attention.
2. Hardeman and the Pilliods have a strong interest in ensuring this appeal, to the extent it is even properly before this Court, is vigorously and legally litigated because they have their own appeals pending before the United States Court of Appeals for the Ninth Circuit (Hardeman) and California Court of Appeals (Pilliod) involving, in part, the same preemption issue that is at the heart of the “appeal” in *Carson*.

3. Because there is no defined mechanism to notify the Court of these issues, this Motion for Leave is styled as a “Motion to Intervene,” in the CM/ECF system. However, neither Hardeman nor Pilliod seek to intervene in this matter; they merely seek leave to file the attached letter and declaration to provide the Court with information impacting the validity of the appeal.
4. As explained in the accompanying letter, the Court should dismiss this appeal outright or, at the very least, investigate the underlying “settlement” agreement and any communications evidencing the same to ensure this appeal is justiciable and being litigated in good faith. However, should the Court entertain the Carson appeal on the merits, Hardeman and the Pilliods will seek leave of the Court to file an *amicus* brief on the merits.

WHEREFORE, we respectfully request that this Court grant leave to file the attached letter brief and accompanying declaration.

Dated: April 22, 2021

Respectfully Submitted,

/s/ David J. Wool

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**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT,
TYPEFACE REQUIREMENTS, AND TYPE-STYLE REQUIREMENTS**

Check the appropriate box in section 1, and check the box in section 2.

1. Type-Volume

This document complies with the word limit of FRAP 27(d)(2)(A) because, excluding the parts of the document exempted by FRAP 32(f) and , this document contains 347 words.

or

This brief complies with the line limit of FRAP [insert Rule citation] because, excluding the parts of the brief exempted by FRAP 32(f) and [insert applicable Rule citation, if any] , this brief uses a monospaced typeface and contains [state the number of] lines of text.

2. Typeface and Type-Style

This document complies with the typeface requirements of FRAP 32(a)(5) and the type-style requirements of FRAP 32(a)(6).

(s) David Wool

Attorney for Edwin Hardeman

Dated: 4/22/2021

Carson v. Monsanto Co., No. 21-10994

CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury pursuant to 28 U.S.C. § 1746 that on April 22, 2021, he filed the foregoing Motion by using the Court's CM/ECF system, and that such filing effected service of the Motion for Leave on all counsel who are CM/ECF participants in this case.

/s/ David Wool

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