

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

IN RE GENETICALLY MODIFIED) 4:06MD1811 CDP
RICE LITIGATION) ALL CASES

CASE MANAGEMENT ORDER No. 27

For the reasons stated in the parties' motions and on the record at the monthly status conference held on November 18, 2010,

IT IS HEREBY ORDERED that the following schedules shall apply:

1. Non-Producer Cases

For the following non-producer cases:

<i>Texana Rice Mill, Ltd., et al.</i> <i>v. Bayer CropScience LP, et al.</i>	4:07CV416 CDP
<i>Beaumont Rice Mills, Inc., et al.</i> <i>v. Bayer CropScience LP, et al.</i>	4:07CV524 CDP
<i>Kennedy Rice Dryers, LLC</i> <i>v. Bayer CropScience LP, et al.</i>	4:07CV1773 CDP
<i>Farmers Rice Milling Co., Inc.</i> <i>v. Bayer CropScience LP</i>	4:07CV1780CDP
<i>Planters Rice Mill, LLC</i> <i>v. Bayer CropScience LP, et al.</i>	4:07CV1795 CDP
<i>Gulf Pacific Rice Co., Inc., et al.</i> <i>v. Bayer CropScience LP, et al.</i>	4:08CV1545 CDP
<i>Phoenix Advisors, Ltd.</i>	

v. Bayer CropScience LP, et al.

4:08CV1794 CDP

- a. All discovery shall be completed no later than **March 11, 2011**.
- b. Plaintiffs' damages expert Dr. Merrill Bateman shall be deposed no later than **January 7, 2011**.
- c. Defendants shall disclose any expert reports responding to Bateman's opinions no later than **February 4, 2011** and defendants shall make expert witnesses available for depositions and have depositions completed, no later than **February 25, 2011**.
- d. Plaintiffs shall disclose rebuttal expert reports, other than those specified in my Order dated November 1, 2010, and make those experts available for depositions, and have depositions completed, no later than **March 11, 2011**.
- e. Any motions for summary judgment or motions to exclude or limit expert testimony under *Daubert* or for any other reason must be filed no later than **March 25, 2011**. Briefs in opposition must be filed by **April 22, 2011**, and any reply brief shall be filed no later than **May 6, 2011**.

2. Pretrial Schedule and Procedure for Trial Beginning January 2011

The parties shall file their initial pretrial submissions, including a joint statement of the case, proposed witness lists, exhibit lists, proposed jury instructions, deposition designations, and motions in limine no later than **December 21, 2010**. Final pretrial submissions, including responses to motions in limine, objections to exhibits, counter-designations to the depositions, and objections to jury instructions shall be filed no later than **January 7, 2011**.

3. Claims Remaining in *Tilda v. Riceland Foods*

For the remaining claims in *Tilda Ltd. v. Riceland Foods, Inc., et al.*, 4:07CV457 CDP, specifically the affirmative claims asserted by Producers Rice Mill, Inc. against the Bayer defendants for money damages, any motions for summary judgment or motions to exclude or limit expert testimony under *Daubert* or for any other reason must be filed no later than **February 4, 2011**. Briefs in

opposition must be filed by **March 4, 2011**, and any reply brief shall be filed no later than **March 25, 2011**.

4. Issues for the December Status Conference

Prior to the status conference scheduled for December 9, 2010, the parties should meet and confer regarding:

- a. A discovery and briefing schedule for the non-producer case *Cache River Valley Seed, LLC, et al. v. Bayer CropScience LP, et al.*, 4:07CV1293 CDP.
- b. Whether it is necessary to alter the *Daubert* motion briefing schedule for the Arkansas trials scheduled for May 16, 2011 and July 11, 2011.
- c. A proposal for the pretrial submission deadlines for the Arkansas trials.
- d. A report on the potential for a trial of a non-producer case in this district.
- e. The parties should also consider a procedure for complying with Rule 10.4 of the Rules of Procedure of the United States Judicial Panel on Multidistrict Litigation.

IT IS FURTHER ORDERED that Bayer's motion to strike the supplemental expert report of Dr. Bruce Babcock [#3619] is denied.

IT IS FURTHER ORDERED that defendant's motion to enforce the court's prior ruling striking the supplemental report of Dr. Colin Carter [#3621] is granted only to the extent of the upcoming trial in January 2011. The motion is otherwise denied; in future cases defendants will be allowed to present additional rebuttal expert testimony; any new witness will be limited to rebutting only the

conclusions of Dr. Carter that are based on new data and new events, as disclosed in Dr. Carter's supplemental report. At the December 9, 2010 monthly telephone conference, the parties must propose any revisions to the existing scheduling orders they believe are necessary to accommodate this additional rebuttal expert testimony.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 24th day of November, 2010.