

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

*In re*  
*Genetically Modified Rice Litigation*

Master Case No. 4:06MD1811CDP  
MDL Docket No. 1811

RIVIANA FOODS INC.

PLAINTIFF

v. NO. 4:08cv375CDP

BAYER AG, BAYER CROPSCIENCE AG,  
BAYER CORPORATION,  
BAYER CROPSCIENCE, LP,  
BAYER BIOSCIENCE nv,  
RICELAND FOODS, INC., and  
PRODUCERS RICE MILL, INC.

DEFENDANTS

**ORDER ON JOINT MOTION TO DISMISS**

Before the Court is the joint motion of Riviana Foods Inc. (“Riviana”), Riceland Foods, Inc. (“Riceland”), Producers Rice Mill, Inc. (“PRM) and the Bayer defendants to dismiss this case. Having considered the motion, it is hereby ORDERED:

- a. The claims of Riviana (including the claims Riviana asserted on behalf of the Affiliates<sup>1</sup>) asserted in this action, and only in this action, against the Bayer defendants, Riceland and PRM are dismissed with prejudice, *less and except* those claims that were previously dismissed without prejudice (DE 208 and 209 in 08-375, DE 2707 and 2710 in 06-1811).
- b. The cross-claims and third party claims asserted by Riceland against the Bayer defendants in this action, and only in this action, as set forth in its Answer and

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<sup>1</sup> The Affiliates are Boost Nutrition nv, Euyrza GmbH, Panzani S.A.S. and S&B Herba Foods, Ltd.

Cross-Claim filed December 18, 2008 (DE 57 in 08-375, not filed in 06-1811), are dismissed as moot, in light of the dismissal of Riviana's claims against Riceland. The cross-claims and third-party claims of PRM asserted against the Bayer defendants in this action, and only in this action, as set forth in PRM's second amended cross-claim and third party complaint against the Bayer defendants filed August 26, 2009 (DE 101 in 08-375, DE 1472 in 06-1811), are dismissed as moot, in light of the dismissal of Riviana's claims against PRM.

- c. The dismissals are the product of extra-judicial resolution and do not constitute adjudications on the merits, and the order has no precedential, *res judicata* or collateral estoppel effect in any other actions, federal or state, except insofar as any attempted re-litigation by Riviana of the claims contained in Riviana's amended complaint, other than the aforementioned claims that were expressly dismissed without prejudice.
- d. The parties and this Court acknowledge that there are other actions pending in federal and state courts that generally involve the alleged contamination of United States rice with genetically modified rice. However, those actions turn on different transactions and occurrences than those that are the subject of this action, involve potentially different causes of action and governing law than those that are the subject of this action, and/or include parties that are not party to this action. Accordingly, the order of dismissal in this action is intended solely to effect the final disposition of this action and does not constitute either a first dismissal or a subsequent dismissal for purposes of Fed. R. Civ. P. 41(a)(1)(B) or any similar state rule or statute.

e. Each party shall bear its own costs and attorneys' fees.

ENTERED this 7<sup>th</sup> day of June, 2010

  
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CATHERINE D. PERRY  
UNITED STATES DISTRICT JUDGE