

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

IN RE GENETICALLY MODIFIED RICE)
LITIGATION)

4:06 MD 1811 CDP

ALL CASES

and

IN THE CIRCUIT COURT OF ARKANSAS COUNTY, ARKANSAS
STUTTGART DISTRICT
(CIVIL DIVISION)

SCOTT MEINS, INDIVIDUALLY, DEAN MEINS
INDIVIDUALLY, S&D FARM PARTNERSHIP,
RAYMOND MEINS, INC., CHARLES SHUMATE,
SCOTT E. SHUMATE, ROBERT H. POND,
INDIVIDUALLY, JUDY POND, INDIVIDUALLY,
J. KEVIN POND, INDIVIDUALLY, ANN POND,
INDIVIDUALLY, MILLION MALLARD FARMS
PARTNERSHIP, PONDS FARM, INC.,
JOHNNY SIMPSON, INDIVIDUALLY, ELIZABETH
SIMPSON, INDIVIDUALLY, JOHNNY & ELIZABETH
SIMPSON PARTNERSHIP, DAVID SIMPSON,
INDIVIDUALLY, TERRY SIMPSON, INDIVIDUALLY,
DAVID AND TERRY SIMPSON PARTNERSHIP,
HENRINE JOYNER, HUBERT JOYNER,
JANE WRIGHT HUBERT, JOSEPHINE SEEN,
JAMES WESLEY STATEN, INDIVIDUALLY AND AS
EXECUTOR OF THE ESTATE OF JAMES L. STATEN,
RANDY STATEN, JAMIE L. MARTIN, BETTY MORRIS,
INDIVIDUALLY, BETTY L. MORRIS LIVING TRUST,
MARK SIMPSON, INDIVIDUALLY, ELAINE SIMPSON,
INDIVIDUALLY, MARK AND ELAINE SIMPSON
FARMS, JEFF SIMPSON, INDIVIDUALLY, MARCIE
SIMPSON, INDIVIDUALLY, J&M SIMPSON FARMS,
STATEN FAMILY FARMS and K&L FARMS

PLAINTIFFS

VS.

CASE NO. CV-2008-108

BAYER AG, ET AL.

DEFENDANTS

AMENDED NOTICE OF DEPOSITION

Please take notice that defendant Bayer CropScience LP will take the deposition of the authorized representative of defendant Riceland Foods, Inc. (“Riceland”), at the time and locations identified below and continuing thereafter until complete. The deposition will be recorded by stenographic means and by videotape before a duly authorized court reporter authorized by law to administer oaths.

Date and Time	30(b)(6) Deponent	Location
December 6, 2010 11:00am December 7, 2010 9:00am	Harry Loftis	Barrett & Deacon 300 S. Church Street Jonesboro, AR 72403
December 8-9, 9:00am	Terry Richardson	Barrett & Deacon 300 S. Church Street Jonesboro, AR 72403
Additional dates to be noticed		

The deponent named by this notice is Riceland. Under the provisions of Federal and Arkansas Rule of Civil Procedure 30(b)(6), Riceland is required to identify and produce for deposition one or more officers, representatives, managing agents, or other agents and employees who shall testify on behalf of Riceland and who are most knowledgeable as to the matters that are the subject of Riceland’s cross-claim in this action and the documents described in the attached Exhibit A.

Pursuant to Rule 30(b) of the Federal and Arkansas Rules of Civil Procedure, Riceland is required to bring with it all documents described in the attached Exhibit A.

You are invited to attend and cross examine.

Pursuant to the Deposition Protocol set forth in the Agreed Order Setting Deposition Protocol entered December 3, 2007, please provide notice of intent to attend the deposition by

contacting Mary Ellan Goss at mgoss@wlj.com or (501) 212-1328, with the names of the party affiliations of those who plan on attending the deposition.

Dated: December 2, 2010

Respectfully submitted,

/s/Eric R. Olson

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ATTORNEYS FOR BAYER CROPSCIENCE LP

CERTIFICATE OF SERVICE

This is to certify that I have this 2nd day of December, 2010, electronically filed a copy of the foregoing with the Clerk of Court to be served by operation of the Court's electronic filing system upon the parties of record and a copy sent by electronic mail to the following:

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/s/ Eric R. Olson
Eric R. Olson

EXHIBIT A

Pursuant to Rule 30(b) of the Arkansas Rules of Civil Procedure, Riceland is requested to bring with it the following documents. This listing of documents requested includes all matters on which examination is requested. Riceland is instructed to produce copies of all documents listed below and to produce an authorized representative (or authorized representatives) who is most knowledgeable as to those documents and the matters listed below.

1. All analysis, surveys, studies, or commentary on potential or actual markets for all types of rice performed by or for Riceland from January 1, 2001 to the present and the identity and location of any such documents.
2. Any sales estimates, projections, or forecasts for any rice product or type made by or for Riceland from January 1, 2001 to the present and the identity and location of any such documents.
3. All efforts by Riceland from January 1, 2001 to the present to market or sell any type of rice to any foreign or domestic market and the identity and location of any documents related to such efforts.
4. An accounting of Riceland's sales of long grain rice and related products from January 1, 2001 to the present, including the breakdown of the volume and price of those sales by country and product type and the identity and location of any documents relating to such sales.
5. The actual margins obtained by Riceland from its rice milling operations from January 1, 2001 to the present at each of the mills operated by Riceland.
6. The process by which Riceland determines the price at which it is willing to sell its milled rice and related products from January 1, 2001 to the present.
7. Riceland's financial condition from January 1, 2001 to the present, including annual profits and losses, annual income statements, and any calculation of profit margins and/or milling margins and any documents relating to Riceland's financial condition.
8. The milling, shipping, selling, and administrative costs incurred by Riceland at its parboil and regular mill facilities and the identity and location of any documents relating to such costs.
9. The historical relationship between rough rice prices and the price of milled rice products sold by Riceland and the identity and location of any documents relating to such relationship.

10. The milling capacity and utilization of Riceland's parboil and regular mill facilities from January 1, 2001 to the present.
11. Riceland's storage capacity for rough and milled rice from January 1, 2001 to the present, and how the determination is made whether to store rough rice or to mill it.
12. The historical monthly volume of each type of rice in storage at Riceland from January 1, 2001 to the present.
13. Riceland's purchase of rough rice from January 1, 2001 to the present, including the process by which Riceland determines the price it will pay for rough rice, the amount of rough price purchased by variety and year, the type of pricing used (including cash prices, forward contracts, marketing pools, or other types), and the prices paid by pricing type and year.
14. All communication between Riceland and any representative or employee of any Bayer Defendant.
15. All communications to or from rice industry participants regarding LLRICE or genetically modified rice.
16. Riceland's communications from January 1, 2001 to the present with the USA Rice Federation, NERMA, or any other trade group or association, relating to the import or export of U.S. rice.
17. All statements or communications by Riceland to its members or any member of the press regarding genetically modified rice, including Riceland's costs, expenses, or information regarding threatened or pending legal proceedings, and the identity and location of such documents.
18. Riceland's understanding of available testing for genetically modified content of rice available from January 1, 2001 to the present.
19. All additional testing procedures implemented by Riceland to test for the potential presence of GM rice in the rice handled or processed by Riceland.
20. All guarantees, promises, or statements made by Riceland regarding whether its rice contained genetically modified rice and all steps taken to test, validate, support, or verify any such statements.
21. All customer notifications or complaints regarding the presence of genetically modified rice in rice sold or provided by Riceland, all internal communications regarding such notifications or complaints, the basis for deciding whether or not to investigate such notifications or complaints, the identity of those who were told of such customer notifications or complaints, all communications with the USDA, the Arkansas State Plant Board, Bayer, any member of the rice industry, or any governmental agency, and the identity and location of all documents relating to such customer notifications or complaints.

22. The process utilized by Riceland to determine what types and varieties of rice to place on any list of approved or recommended varieties distributed to farmers.
23. Riceland's work with any developer of genetically modified rice, where Riceland grew, processed, stored, tested, or evaluated any genetically modified rice of any kind, including the identity of the individuals and their company affiliation who initially contacted Riceland regarding the proposed research, development and testing of genetically modified rice, all internal and external communications regarding this work, all steps taken by Riceland to keep the genetically modified rice contained, and all compensation paid to or by Riceland for this work. This topic includes, but is not limited to, Riceland's participation in the 2000 Experimental Use Permit activities with regard to LLRICE.
24. Riceland's growing, testing, processing, milling, storing or in any way handling of genetically modified crops of any type from January 1, 2001 to the present, including but not limited to:
 - a. The identity of varieties or types of genetically modified crops that Riceland grew, tested, processed, milled, stored, or handled
 - b. The identity of any individual or entity Riceland contracted with or worked with to grow, test, process, mill, store or in any way handle genetically modified crops
25. Detailed information to identify the varieties/types of genetically modified crops that any individual or entity with which Riceland had a contract to grow, test, process, mill, store or in any way handle LLRICE from January 1, 2001 to the present.
26. Riceland's member list, including the list itself, how it is maintained and updated, and the identity of any Riceland member who has filed suit against any Bayer defendant related to genetically modified rice.
27. The identity of Riceland's employees who live or work in Arkansas County, Arkansas.
28. The identity and location of documents used to prepare the responses to Riceland's Interrogatory Responses in *Sims, et al. v. Bayer CropScience LP, et al.*, No. CV-2009-118-3 in the Circuit Court of Desha County, Arkansas and all individuals consulted in those responses.
29. All damages, including costs and lost business opportunities, incurred by Riceland as a result of the presence of genetically modified rice in the U.S. rice crop and the identity and location of any documents relating to such costs and damages. This topic includes, but is not limited to,
 - a. Detailed information regarding all credits, discounts, refunds, or any other benefits issued by Riceland to any actual or potential customer or supplier of any kind.
 - b. Detailed information regarding all rice or rice products repurchased by Riceland and all costs relating to such rice.

- c. Detailed information related to and documentation in support of Riceland's claim for damages based on increased costs and expenses associated with testing and monitoring rice.
 - d. Detailed information related to and documentation in support of Riceland's claim for damages based on costs and expenses associated with storing, recalling, returning, repackaging, reprocessing, or destroying rice destined for customers or others who, post August 18, 2006, refused to take rice not accompanied by a certificate of analysis stating that the rice was 100% non-transgenic.
 - e. Detailed information related to and documentation in support of Riceland's claim for damages based on lost revenues on sales of long-grain rice and rice products, and/or cost of cover associated with acquiring rice from alternative sources.
 - f. Detailed information related to and documentation in support of Riceland's claim for damages based on increased cost of production and loss of efficiency in Riceland's processes.
 - g. Detailed information related to and documentation in support of Riceland's claim for damages to Riceland's good will, business reputation, and brand names.
 - h. Detailed information related to and documentation in support of Riceland's claim for damages based on costs associated with remediation of Riceland's facilities.
 - i. Detailed information related to and documentation in support of Riceland's claim for damages based on costs, expenses, and legal fees associated with communicating with customers and responding to and defending claims by those customers.
 - j. Detailed information related to and documentation in support of Riceland's claim for damages based on costs, expenses, and legal fees related to responding to and defending claims by rice producers.
 - k. Detailed information related to and documentation in support of Riceland's claim for damages based on Riceland's costs, expenses, and attorney's fees associated with Riceland's First Amended Cross-Claim.
1. The specific identity of sales that Riceland claims it lost.
30. All steps taken by Riceland to mitigate any claimed damages.
 31. The manner in which any recovery in this lawsuit will be distributed to members of Riceland's senior team and Riceland's membership.
 32. All documents published or distributed by Riceland related to Riceland's obligation or lack thereof, ability or inability, or willingness or unwillingness to supply to its European Union customers rice which is not genetically modified.
 33. All communications between Riceland and any European Union customer related to Riceland's obligation or lack thereof, ability or inability, or willingness or unwillingness to test rice for grade, safety, presence of pests, or any other characteristics.

34. All communications between Riceland and any European Union customer related to Riceland's obligation or lack thereof, ability or inability, or willingness or unwillingness to employ specific methods of selecting rice to be tested ("sampling").
35. All communications between Riceland and any European Union customer related to Riceland's obligation or lack thereof, ability or inability, or willingness or unwillingness to use specific parties to perform testing or sampling.
36. All communications between Riceland and any European Union customer related to Riceland's obligation or lack thereof, ability or inability, or willingness or unwillingness to use third parties to perform testing or sampling that have been approved or certified by government agencies.
37. All communications between Riceland and any European Union customer related to sampling procedures.
38. All communications between Riceland and any European Union customer related to testing procedures.
39. All communications, including but not limited to, contracts, statements, warranties, assurances, or guarantees, between Riceland and any European Union customer related to the presence or absence of genetically modified material in Riceland's rice shipments.
40. Riceland's practices for sampling and testing of rice upon arrival at its facilities from January 1, 1999 to August 18, 2006, including the method of sampling, the method of testing, the characteristics or qualities that were tested, the identity of all Riceland employees who performed such sampling and testing, the identities of all third parties who performed such sampling and testing, Riceland's retention of the samples, Riceland's retention of the testing results, all documents evidencing such sampling or testing, and the cost of such sampling and testing.
41. Riceland's practices for sampling and testing of rice while present at its facilities from January 1, 1999 to August 18, 2006, including the method of sampling, the method of testing, the characteristics or qualities that were tested, the identity of all Riceland employees who performed such sampling and testing, the identities of all third parties who performed such sampling and testing, Riceland's retention of the samples, Riceland's retention of the testing results, all documents evidencing such sampling or testing, and the cost of such sampling and testing.
42. Riceland's practices for sampling and testing of rice upon departure from its facilities from January 1, 1999 to August 18, 2006, including the method of sampling, the method of testing, the characteristics or qualities that were tested, the identity of all Riceland employees who performed such sampling and testing, the identities of all third parties who performed such sampling and testing, Riceland's retention of the samples, Riceland's retention of the testing results, all documents evidencing such sampling or testing, and the cost of such sampling and testing.

43. Riceland's practices for sampling and testing of rice upon arrival at its facilities from August 18, 2006 to the present, including the method of sampling, the method of testing, the characteristics or qualities that were tested, the identity of all Riceland employees who performed such sampling and testing, the identities of all third parties who performed such sampling and testing, Riceland's retention of the samples, Riceland's retention of the testing results, all documents evidencing such sampling or testing, and the cost of such sampling and testing.
44. Riceland's practices for sampling and testing of rice while present at its facilities from August 18, 2006 to the present, including the method of sampling, the method of testing, the characteristics or qualities that were tested, the identity of all Riceland employees who performed such sampling and testing, the identities of all third parties who performed such sampling and testing, Riceland's retention of the samples, Riceland's retention of the testing results, all documents evidencing such sampling or testing, and the cost of such sampling and testing.
45. Riceland's practices for sampling and testing of rice upon departure from its facilities from August 18, 2006 to the present, including the method of sampling, the method of testing, the characteristics or qualities that were tested, the identity of all Riceland employees who performed such sampling and testing, the identities of all third parties who performed such sampling and testing, Riceland's retention of the samples, Riceland's retention of the testing results, all documents evidencing such sampling or testing, and the cost of such sampling and testing.
46. During the period from January 1, 1999 to August 18, 2006, Riceland's knowledge of methods of sampling and testing for genetically modified material in rice and its reasons for using and/or not using those methods, including Riceland's knowledge of any limitations and costs of such testing.
47. During the period from August 18, 2006 to the present, Riceland's knowledge of methods of sampling and testing for genetically modified material in rice and its reasons for using and/or not using those methods, including Riceland's knowledge of any limitations and costs of such testing.
48. During the period from January 1, 1999 to the present, Riceland's knowledge of industry accepted methods for sampling and testing rice for any purpose.